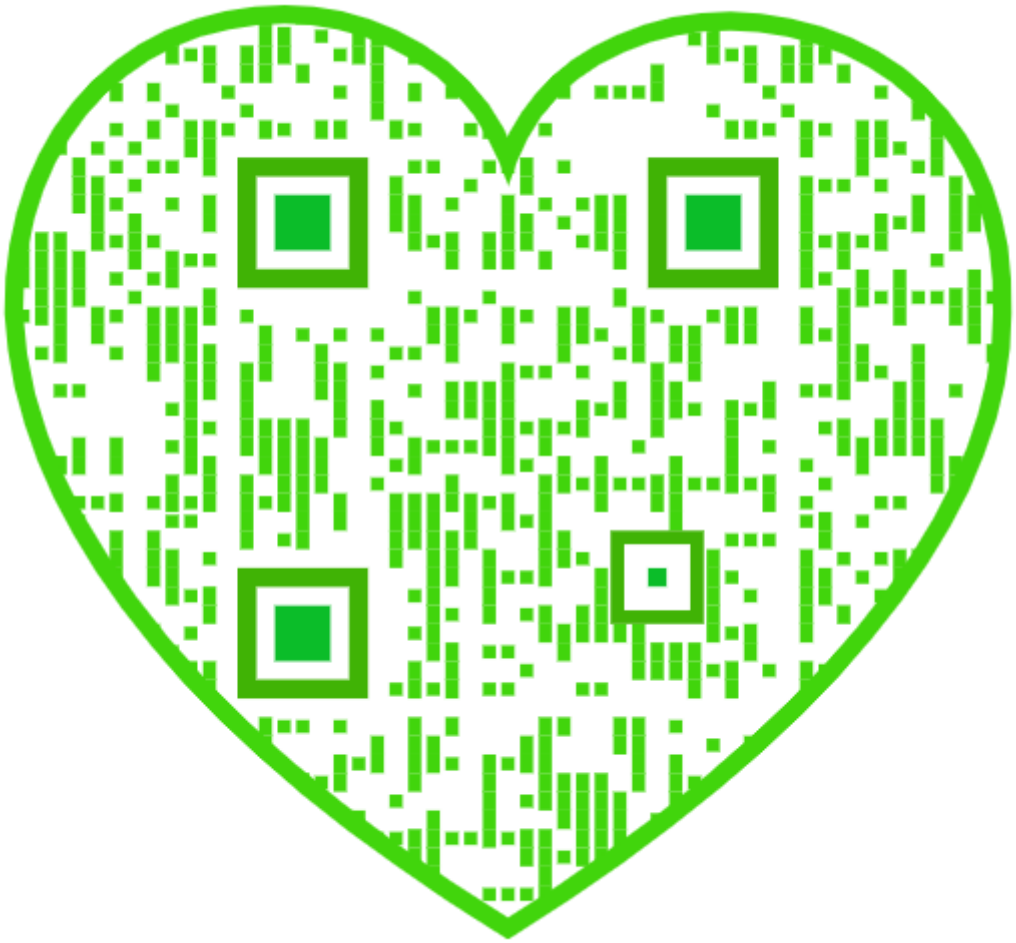
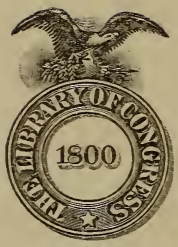
HD 5325
.M63
1913
C78
Copy 1





Class HD5325
Book M63
1913
C78

2

CONDITIONS IN THE COAL MINES OF COLORADO

IN THE MATTER OF THE HEARING BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON MINES AND MINING, HOUSE OF REPRESENTATIVES, SIXTY-THIRD CONGRESS, SECOND SESSION, PURSUANT TO HOUSE RESOLUTION 387, AUTHORIZING AND DIRECTING THE COMMITTEE TO MAKE AN INVESTIGATION OF THE CONDITIONS IN THE COAL FIELDS OF COLORADO

403
29E

BRIEF FOR THE STRIKING MINERS

HORACE N. HAWKINS
Attorney for the United Mine Workers

E. P. COSTIGAN and
JAMES H. BREWSTER
Special Counsel
Before the Congressional Committee

WASHINGTON
GOVERNMENT PRINTING OFFICE
1914

HD
5325
.M63
1913
C78

D. OF D.
JUN 29 1914

CONTENTS.

	Page.
The resolution authorizing this investigation	5
The general causes of the strike	5
Mine owners' ignorance of conditions and lack of sense of personal responsibility	6
Mine operators' system of feudalism	11
Mine operators' disregard of the rights of society	12
The denial by the operators to their employees of the right to organize and bargain collectively	14
Union incorporation	17
The coal monopoly	18
The modern attitude toward freedom of contract	18
The 1910 strike	20
The 1913 strike—Specific causes of the strike	20
The semimonthly pay day	21
Illegal discrimination against union men	22
Blacklisting	25
The eight-hour law	26
The truck system—Scrip—Company stores	27
Checkweighman and short weights	29
The matter of wages	31
Preventable mine accidents and deaths	32
Workers' compensation for accident and death, and coroners' juries	33
Private detectives as mine guards—The making of private war	35
Violence during the strike	36
Provocation of strikers at the Ludlow tent colony	37
The attack on the Forbes tent colony	40
Other instances of violence	41
The constitutional right to bear arms	41
The militia	42
Violation of Federal law	46
United States postal regulations	46
A system of peonage	47
Violation of State law prohibiting false advertising	52
Deplorable general conditions	53
Report of Federal grand jury	54
The denial of social, industrial, and political justice	55
Conclusion—Suggested legislation	58–60

CONDITIONS IN THE COAL MINES OF COLORADO.

IN THE MATTER OF THE HEARING BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON MINES AND MINING, HOUSE OF REPRESENTATIVES, SIXTY-THIRD CONGRESS, SECOND SESSION, PURSUANT TO HOUSE RESOLUTION 387, AUTHORIZING AND DIRECTING THE COMMITTEE TO MAKE AN INVESTIGATION OF THE CONDITIONS IN THE COAL FIELDS OF COLORADO.

BRIEF FOR THE STRIKING MINERS.

The resolution authorizing and directing this investigation is as follows:

Resolved, That the House Committee on Mines and Mining is hereby authorized and directed to make a thorough and complete investigation of the conditions existing in the coal fields in the counties of Las Animas, Huerfano, Fremont, Grand, Routt, Boulder, Weld, and other counties in the State of Colorado, and in and about the copper mines in the counties of Houghton, Keweenaw, and Ontonagon in the State of Michigan, for the purpose of ascertaining—

First. Whether or not any system of peonage has been or is being maintained in said coal or copper fields.

Second. Whether or not postal services and facilities have been or are being interfered with or obstructed in said coal or copper fields; and if so, by whom.

Third. Whether or not the immigration laws of this country have been or are being violated in said coal or copper fields; and if so, by whom.

Fourth. Investigate and report all facts and circumstances relating to the charge that citizens of the United States have been arrested, tried or convicted contrary to or in violation of the Constitution or the laws of the United States.

Fifth. Investigate and report whether the conditions existing in said coal fields in Colorado and in said copper fields in Michigan have been caused by agreements and combinations entered into contrary to the laws of the United States for the purpose of controlling the production, sale, and transportation of the coal and copper of these fields.

Sixth. Investigate and report whether or not firearms, ammunition, and explosives have been shipped into the said coal and copper fields with the purpose to exclude the products of the said fields from competitive markets in interstate trade; and if so, by whom, and by whom paid for.

Seventh. If any or all of these conditions exist, the causes leading up to said conditions.

In the foregoing resolution the causes of any evil conditions which may exist are referred to in the last clause. We believe, however, that it is better, from all points of view, to discuss the causes before we consider effects. It is both historically and logically more appropriate to do so. In considering these we propose to take up first certain causes of a very general nature, but upon which we believe all the others depend.

THE GENERAL CAUSES OF THE STRIKE.

The causes of Colorado's industrial war in its coal-mining districts are not of recent origin. Among the principal ones—long-standing

and fundamental—are the ignorance of the owners of the great coal-producing properties concerning the actual conditions under which their employees live and labor; the lack of any proper sense of personal responsibility on the part of those owners for what is wrong in those conditions; the maintenance by the coal-mining operators of a modern system of monopolistic feudalism with many of the evil features of the old feudalism, but without many of those features which made it somewhat beneficent; the insistence by the operators upon their right to conduct a vast coal-producing business—a business in reality affected with a public interest—regardless of how their conduct may affect society at large, and as if it were a small private business; the unwillingness on the part of the operators to concede to their employees the right of effective organization, while themselves maintaining a complete combination and organization. From these underlying causes arise all those more immediate causes which the workers assign as special grievances.

MINE OWNERS' IGNORANCE OF CONDITIONS AND THE LACK OF A SENSE OF PERSONAL RESPONSIBILITY.

Hardly anywhere can be found a more forcible illustration of certain peculiar characteristics of our modern industrial system than is afforded by the testimony of some of the leading Colorado coal operators. Prominent among these characteristics are the merging of all personal responsibility in the corporate entity, and the lack of real knowledge on the part of those who receive the profits as to how it is with the wage worker. Many of the evils of this industrial war can be attributed to this ignorance and lack of a sense of individual personal responsibility.

The Colorado Fuel & Iron Co. produces 40 per cent of the coal produced in Colorado, and Mr. John D. Rockefeller owns 40 per cent of this company. As there is no evidence that any one person controls any greater interest in the coal mines of the State, the testimony of Mr. Rockefeller's son and representative is important.

Mr. John D. Rockefeller, jr., a director of the Colorado Fuel & Iron Co., and the representative of his father, who owns such a large interest in it, has not found it necessary to attend a directors' meeting for 10 years, because he is kept "fully informed" by President Welborn and Vice President Bowers, who is also treasurer of the company and chairman of its executive board. Mr. Rockefeller does not even know all his fellow directors (p. 2847), nor does he know who, next to his father, is the largest stockholder, because "the books and stock accounts are kept in the West" (p. 2845). When we turn to the West, we find that Messrs. Welborn and Bowers know less, if possible, about such matters than does Mr. Rockefeller in the East, for Mr. Welborn can not even guess who the largest stockholder is (p. 529), and Mr. Bowers, the treasurer of the company and Mr. Rockefeller's "hired man" and representative, is wholly ignorant of Mr. Rockefeller's holdings in the Colorado Fuel & Iron Co., though he remembers in detail his intersts in other corporations with which we are not at all concerned (pp. 2439, 2440). From Messrs. Welborn and Bowers Mr. Rockefeller says he gets his information, and he will stand by the officers of the company (pp. 2846, 2852), as he wrote to Mr. Bowers, "to the end" (p. 2444).

Mr. Bowers testified that "all the matters of importance I take up with" Mr. Rockefeller (p. 2441), and Mr. Rockefeller affirms that this strike fight is for "a principle we are standing for at any cost" (p. 2887). When one considers the terrible cost of the fight in blood and treasure, he has a right to expect that such an emphatic declaration is the result of deeply settled conviction, based upon actual knowledge which gives the man making the declaration the right to affirm before the world without fear or shame—"my conscience entirely acquits me" (p. 2858).

Mr. Rockefeller relies upon Messrs. Welborn and Bowers, because they are "in constant touch with the employees of the company" (p. 2883), and although he has been "fully aware" of conditions in the company mines which are reported as "shocking," he has not thought it necessary to do anything more than get reports from the president and treasurer (p. 2852). These officers, however, are far from "being in touch with the employees." They themselves rely in this very big business upon the reports of subordinates. President Welborn's principal subordinate in the fuel department of the company is General Manager Weitzel, who himself is a very busy man, and receives reports from assistant managers and mine superintendents, does not visit the mines "frequently," although he says, "I get around when I can" (p. 1793). Mr. Welborn, to be sure, has a "personal acquaintance" with the company's mine superintendents "except possibly one or two" (p. 498), though he does not talk with the coal miners (p. 527), not even having met them personally when they were discussing the strike last September (p. 544).

In this manner knowledge of the miner and of the actual conditions under which he lives and labors ascends from those subordinate company employees just above him, through a series of reports to the managing officers, and finally to the owners, and there is lacking any real understanding of the human relationship existing between the man who produces and the man who owns, and the reports themselves fail to touch upon many points of importance to the miner, as they go through this sifting and refining process.

Under such a system it is not surprising that the real owner does not know the truth; hence we find Mr. Rockefeller persuaded that the miners of the Colorado Fuel & Iron Co. had no grievances and brought no complaints (p. 2884), and he states that "the records show that the conditions have been admirable." His method of interpreting records is illustrated by his view of that record in the Las Animas County coroner's book: "Accident; fall of rock in mine; internal injury; pelvic region; no relatives and damn few friends" (see p. 1831), which he regards as "an expression of very great sympathy in the language of the westerner."

The record continues:

Mr. EVANS. You think it might be construed to imply very great sympathy for him?
Mr. ROCKEFELLER. Yes. That would probably be the miner's way of saying, "We are mighty sorry that there were no friends."
Mr. BYRNES. This record was made by the coroner, not by a miner.
Mr. ROCKEFELLER. The coroner, of course, would be a western man, would he not (p. 2281)?

Even the operators' chief counsel, a western man of this very same Las Animas County, and one who is not shown by this whole record to be over sensitive or too tender-hearted, expressed surprise at the coroner's annotation (p. 1831).

Though Mr. Bowers takes up with Mr. Rockefeller "all the matters of importance" (p. 2441), the latter has not the "slightest idea" what the miner's annual wage is (p. 2856), nor what the company charges him for rent (p. 2857); so also he "has not the slightest idea" whether any of the company's money has been spent for arms and ammunition or for the importation of machine guns, or for the employment of Baldwin-Felts detectives, though "not long since" Mr. Bowers had told him that the cost of the strike this year to the company "would be in the vicinity of a million dollars" (p. 2867); and while not having "the slightest idea" on these subjects, Mr. Rockefeller assures the committee that he knows the money "has been spent in proper ways to conserve the interests of the employees," though we in New York can not "burden our minds with that detail" (p. 2868). Mr. Rockefeller selects "the highest minded" men he can find (p. 2854), and he says he can not find, if he "were to look this country over, two men in whose judgment, in whose fairness, and whose humanity" he would have greater confidence than in Messrs. Welborn and Bowers (p. 2854). "High-mindedness" and "humanity."

The examination of the company's president shows the following question and answer (p. 553):

Q. And do you feel that in rejecting this suggestion for a conference made in August last—do you feel no responsibility whatever for the subsequent sad events and loss of money?—A. None whatever; none whatever.

The chosen representative of several thousand stockholders prefers machine guns manned by murderous mercenaries to a conference with the representatives of several thousand employees who belong to the only organization open to them as coal miners. In the eyes of the operators this is high-minded and humane, because they have persuaded themselves into believing that "it is a principle we are standing for at any cost" (p. 2887), and so Mr. Rockefeller says:

It is because I have such a profound interest in those men and all workers that I expect to stand by the policy which has been outlined by the officers and which seems to me to be first, last, and always in the greatest interest of the employees of the company (p. 2875).

And that—

* * * as part owners of the property, our interest in the laboring men in this country is so immense, so deep, so profound that we stand ready to lose every cent we put in that company rather than see the men we have employed thrown out of work and have imposed upon them conditions which are not of their seeking and which neither they nor we can see are in our interest (p. 2874).

And this principle for which they are fighting at such great cost against their former employees is "to allow them to have the privilege of determining the conditions under which they shall work" (p. 2875). A little before he had said (p. 2859), "many of these foreigners coming to this country would have very little knowledge of what the best thing was for them to do."

The real significance of this statement is clear when we recollect that many of the strike breakers of 10 years ago are the strikers of to-day; these "foreigners" have learned the bitter lesson and know now what is best for them to do. But the operators are fighting so that "the privilege of determining the conditions under which they shall work" shall still belong to such men as the pitiable Pittsburgh strike breakers who appeared before the committee—men in whom Mr. Rockefeller's interest "is so immense, so deep, so profound." These Pittsburgh

strike breakers, brought here by the Colorado Fuel & Iron Co., were alleged to have signed employment contracts in Pittsburgh, but as the committee well remembers, many of them could not read these contracts; many had not signed them, and few could understand them. These workingmen, contracting in accord with Mr. Rockefeller's great principle of freedom, had no voice whatever in "determining the conditions under which they should work," and, indeed, so grossly were they deceived as to those conditions that when they discovered what they really were they escaped from the mines over the hills in large numbers, when they were not restrained by force or fear imposed by the agents of these advocates of the freedom of contract.

But, says Mr. Rockefeller, we are fighting for 90 per cent of our workers "who have never expressed any dissatisfaction with the terms and conditions of their labor there all these years" (p. 2863), and who have lived with the operators like a "happy family" until "this trouble came in from the outside" (p. 2887).

Mr. Bowers, an "outsider" in Colorado, having his residence at Binghamton, N. Y., was given the important offices in the Colorado Fuel & Iron Co. of vice president, treasurer, and chairman of the executive board, because his "experience in organization and management was very helpful to Mr. Welborn" (Rockefeller, p. 2845); and the majority of the board of directors and the chief owners of that greatest Colorado company are "outsiders"; hence we ought to hear no more from operators about "outsiders" whose "experience in organization and management" has been availed of by the miners.

Mr. Rockefeller seems to believe that 90 per cent of this "happy family" always have been satisfied, and that 10 per cent forced all those who struck into striking against their will, and he tells us that "if the government had more adequately protected these working men in their right to work as they like, this strike would not have happened" (p. 2887).

For the present we shall take simply the testimony of Mr. Welborn, from which it appears that Mr. Rockefeller has been deceived on this subject. Mr. Welborn states that the company's normal number of miners is 6,000. There were on February 13, 1914, according to his statement, 3,000 miners at work, and of these from 1,000 to 1,200 were imported strike-breakers (p. 530); hence nearly five months after the strike was called only from 30 to 33 per cent of the company's former employees were at work, and it had been necessary to import these hundreds of strike breakers of the character that the committee saw, although the "government" by its militia and deputy sheriffs, with the help of the operators' machine guns, had for months been trying to break the strike.

Mr. Rockefeller admits that a man frequently may be deceived (p. 2877). He has been deceived, it would seem, in most matters connected with this great coal company; deceived partly by himself and partly by others. Mr. Rockefeller, for example, "hopes" that there are not any saloons on the company's property (p. 2868), while it is well known to everyone else that there are. He does not know whether or not there are high schools in his company's closed towns, nor does he know how those towns are managed as to officials, taxes, etc. (p. 2869). He has not corresponded with Mr. Bowers or Mr. Welborn about miners' "living conditions" or "working conditions"

or general welfare, though we must remember always that Mr. Bowers takes up all matters of importance with Mr. Rockefeller (p. 2441).

What are these matters of importance? The only matter of im portance to the miner that Mr. Bower seems to have taken up with Mr. Rockefeller is the vital principle which Mr. Rockefeller says (p. 2874) is similar to that upon which "the War of the Revolution was carried on," and that is the principle that Ledrianowski (621), Minnitti (1043), Spino (1249), Kata (1454), and hundreds of the same sort, shall be free to contract as individuals with the great combination of coal companies.

Americans have generally understood that the War of the Revolution was fought because nonresident owners and rulers attempted to repress and exploit people whom they did not know, and did not try to know; whom they supposed to be uneducated and not united in sympathy; people who might have been dealt with, but who, being spurned as well as oppressed, finally revolted. So taxation without representation might well be dwelt on at length should we fully consider the economics applicable to the coal monopolist who may at will levy tribute on both the public and his wage workers, heeding the complaints of neither because the business is *his* business.

As Mr. Rockefeller has been deceived by others on many matters, so he has deceived himself into believing that actually he is contending for the principle of freedom of contract for the worker. This does not exist in the simplest matters in his own company's camps. The company stores fix the prices and the company fixes the house rent, because, as Mr. Rockefeller says, "ordinarily in commercial operations the man who has the goods to sell fixes the price" (p. 2889). And who fixes the price at which the miner must sell his labor, the only thing he has to sell, and without the sale of which he must starve to-morrow? How has Mr. Rockefeller deluded himself into believing that he is fighting for the workers? He truly says, we are frequently deceived, but on this matter no one is deceived but himself, and even he ought not, as an intelligent man, to permit at this day such a deception by a worn-out fallacy. The simple truth is that all Mr. Rockefeller's ideas in industrial matters are founded upon an erroneous economic basis—the primary sacredness of property.

The really important questions—the questions greater than "results" in the shape of dividends and bond interest—which are connected with the management of this great property, are seemingly too vast for its owners to deal with. To some of these questions bearing upon the proper relation betweeen employer and employee, on which their ignorance is manifest, we have adverted. But there are others. Asked as to whether the owner of a coal mine has the right to do what he pleases with the property, Mr. Rockefeller says, "He has not given any thought to it" (p. 2887), and the following question and answer show Mr. Welborn's position:

> Q. Do you think that society has no interest in the mining of that coal, that it is your business?—A. I am very sure it is my business (p. 537).

This "big business," is in reality, too big. "We can not pretend to follow the business ourselves," says Mr. Rockefeller (p. 2846), and when he was asked whether a director should be responsible, he replied:

> In these days, where interests are so diversified and numerous, of course it would be impossible for any man to be personally responsible (p. 2851).

It is this evasion of personal responsibility, this putting a man in as the owners' "hired man," "over whose head you can not go and get results" (p. 2866), that is one great cause of our industrial troubles.

If a business is too big to be managed with responsibility fixed on those who receive the "results," it had better be made smaller, but it is hard to give up the "results." It is recorded how the rich young man went away sorrowful when his highest duty was pointed out to him—"for he had great possessions."

There being an absence in modern industry of that personal relationship which could formerly exist between employer and employee, and which resulted in correlative responsibilities, and there being now a system in which impersonal capital regards impersonal labor simply from the business point of view, there must be an organization of labor in order that labor may meet capital somewhere nearly upon equal terms, just as formerly the personal employee met the personal employer more nearly upon an equality. The union, therefore, should be encouraged rather than discouraged and fought. The worker, lacking also under our modern system anything like the former personal relationship, needs the union because he is a man—still a man, though taking his place as a cog in the machinery of "big business." Moreover, the union has as one of its aims work in education and citizenship, which an owner like Mr. Rockefeller assumes his agents will perform without his inquiry or direction.

THE MINE OPERATORS' SYSTEM OF FEUDALISM.

Colorado presents an instance of modern feudalism. Until there is both political and industrial democracy, and the old order is done away with, there can be no permanent content. The ancient feudalism was based, it is true, upon agriculture; the modern feudalism, as illustrated in this instance, is based upon mining, but this is an immaterial difference. Private monopolistic ownership or control of the land, from the products of which existence was maintained by the labor of the many for the few, was one great characteristic of the old feudalism as it is of the modern, and whether the land product is coal or grain is of little consequence. The analogy between the old feudalism and this modern sort is surprising when one considers what progress, economically, politically, and socially, has been made in general since the former flourished. There is the political sovereignty as well as the ownership of property; the miniature state within the larger state. There is the hired military establishment, and there is the private war. But those living under the modern scheme are at a disadvantage in this: that there is practically now more dependence upon arbitrary will than there was under the old system where custom was recognized as giving certain rights. Here are incorporated towns, every foot of which is owned by the overlord corporations; no one without permission from the overlords' agents may enter, even by a seemingly public way, and in the exercise of the rights of national citizenship to approach the national post office. One may not do business in the town without similar permission. The public officials of the town are the corporation servants; the postmaster is manager of the company store. The corporation overlord pays no taxes, but the inhabitants are taxed by the head for the maintenance

of the property of the town where they may not own a home, and where political and social relationships are dependent on the will of the corporation lord. In a typical town of this sort 250 or 300 persons pay the poll tax, while for the number of inhabitants represented by these taxpayers the company provides six saloons (pp. 1522, 1530). In such towns poll taxes are collected by what the overlord operators have been wont to consider the "obnoxious check-off system" (pp. 1214, 1532). If, perchance, one is a little more independent than the others—has a little more of what Mr. Rockefeller might call the American Revolutionary spirit—out he must go. New workmen are brought in like herded cattle by trainloads, and like chattels are referred to as "shipments" (p. 1356).

The feudal "serf" differed somewhat in his status from the modern "slave," but a legal characteristic which made the modern slave a chattel, rather than a person, was present with the serf—the lord might kill his serf and no one could bring him to justice. How many times has justice been done for miners killed in the mines of Las Animas and Huerfano Counties? Yet in the old feudalism there was always an interesting personal relationship which our modern feudalism lacks. A great impersonal, invisible, soulless and heartless being is now the feudal lord that deals with tenants and servants. Orders emanate from a distant city and finally reach the man at the bottom. The men at the top never see nor know the men whose labor forms three-fourths of the whole industrial structure. Thousands of men work in the bowels of the earth as the servants of thousands of other men, and the personal human relationship of the old feudalism nowhere exists, but the evils of the system remain. And yet the captains of industry speak of this fabric, made up thus of thousands, as their private business.

The call for labor organization to meet the needs of the worker in such conditions is answered by the machine gun. The natural tendencies of feudalism at its worst are given full play and anarchy results as in the time of Stephen, when, as the chronicler says, "Every man did that which was good in his own eyes."

Truly does the chief spokesman of the Colorado coal operators call himself "old-fashioned." He should have lived in the middle ages.

THE MINE OPERATORS' DISREGARD OF THE RIGHTS OF SOCIETY.

The view of the coal operators that the business of mining coal is wholly their own business, as to which they need consult neither society nor their workers, is wholly untenable. An industry which produces and markets one of the necessaries of life, which employs thousands of men upon whom are dependent thousands of other persons, which is given special corporate privileges by the State, which is practically monopolistic, is in reality a business affected with a public interest exactly as are those that we more definitely have regarded as public utilities. Society is not only interested in the uninterrupted operation of such a business, but is deeply interested in the conduct of the business on economic and social lines that are just.

It perhaps may truly be said that in a democracy which is real and not merely one in form, no business can be conducted without regard to the social duties of its manager and owner; but, at any rate, by

warfare in these larger industries the public loss and suffering, direct and indirect, are too great and grave to warrant those who control them in permitting such warfare for any selfish reasons. The continuance of conditions unfair in any degree to the worker leads to such warfare. We shall later point out in detail what unfair conditions have existed in the coal-mining industry of Colorado. We are now referring to a broad general principle as to which at this day argument seems unnecessary.

The welfare of the general public, made up of all classes, can not, in the case of these immense monopolistic industries dealing in the necessaries of life, be ignored by those who cling to the "old-fashioned" ideas that the business is their private business. This peculiarly private interest works against the common good when it seeks to perpetuate the theory of economic individualism. Applying this theory—this great principle for which the operators are now fighting—we see it resulting in the importation into this State of cheap, ignorant laborers, who keep down the miners' standard of living below the proper level for any American workingman.

The regulation of public utilities, which was strenuously opposed but a few years since, and much recent legislation in the exercise of the police power for the general welfare are based upon this principle that society is specially interested in certain kinds of business and that freedom of contract, even where it really exists, must give way to the best interests of the public.

In *Miller* v. *Oregon* (208 U. S., 412) the Supreme Court says, in speaking of the law limiting the working hours of women (p. 422):

> The limitations which this statute places upon her contractual powers, upon her right to agree with her employer as to the time she shall labor, are not imposed solely for her benefit, but also largely for the benefit of all.

It is no novel doctrine that property of all kinds is subject in its use to limitations established for the public good. So long ago as when that great lawyer, Chief Justice Shaw, decided the case of *Commonwealth* v. *Alger* (7 Cush., 53, 84), he stated this doctrine, as follows:

> We think it is a settled principle, growing out of the nature of well ordered civil society, that every holder of property, however absolute and unqualified may be his title, holds it under the implied liability that his use of it may be so regulated, that it shall not be injurious to the equal enjoyment of others having an equal right to the enjoyment of their property, nor injurious to the rights of the community. All property in this Commonwealth, as well that in the interior as that bordering on tidewaters, is derived directly or indirectly from the Government, and held subject to those general regulations, which are necessary to the common good and general welfare. Rights of property, like all other social and conventional rights, are subject to such reasonable limitations in their enjoyment, as shall prevent them from being injurious, and to such reasonable restraints and regulations established by law as the legislature, under the governing and controlling power vested in them by the Constitution, may think necessary and expedient.

If all employers would adopt the enlightened view that the courts and legislatures have taken concerning the proper restriction of the freedom of contract in the interests of the general good, there would be far more industrial peace and happiness than there is. It seems selfishly obstinate for any employer to adhere, at the expense of society, to the out-of-date doctrines as to private business and freedom of contract, when, in fact, his business is not private, and when his free contractor is at such an economic disadvantage as the miner is in dealing as an individual with the mining corporation.

THE DENIAL BY THE OPERATORS TO THEIR EMPLOYEES OF THE RIGHT TO ORGANIZE AND BARGAIN COLLECTIVELY.

It must be apparent to even the most casual observer of our modern industrial system, and especially apparent to anyone who has attended the hearings before this committee, that some organization is absolutely essential to the miners' welfare. The history of Colorado shows that this welfare ought not to be left simply in the hands of the coal operators, and the comparison between the union men who have appeared before the committee and the imported strike breakers who have also appeared is of itself a most cogent argument for unionization. Can the unionists be blamed from any point of view for trying, by combination and organization, to prevent the lowering of our miners' standards of living by the introduction of such men?

Strengthening the union simply enlarges the power of the workingman to secure such benefits as have been sought for in Colorado by the miner through legislation urged by union representatives and through strikes, either threatened or actually called. Were this present strike for unionization alone, it would be justifiable. Almost never have the operators granted a benefit to the miners until it has been forced from them by the miners, backed by such organization as they have been able to effect.

It was not a mere coincidence that in April, 1912, wages were advanced and that there was at the same time a rumor of a general strike. The threat of the strike was necessary to get the advance.

Just 10 years before this present strike was called in the southern fields, demands were made by the miners, and as they were ignored there was a strike. We quote these demands and something further from the Report on Labor Disturbances in the State of Colorado, etc., prepared under the direction of Carroll D. Wright, Commissioner of Labor, Washington, Government Printing Office, 1905, page 331:

Clause 1. That eight hours shall constitute a day's work.

Clause 2. That all wages shall be paid semimonthly and in lawful money of the United States, and the scrip system be entirely abolished.

Clause 3. An increase of 20 per cent on contract and tonnage prices, and 2,000 pounds shall constitute a ton.

Clause 4. That all underground men, top men, and trappers receive the same wages for 8 hours as they are now receiving for 9, 9½, and 10 hours and over for a day.

Clause 5. For the better preservation of the health and lives of our craftsmen we demand a more adequate supply of pure air, as prescribed by the laws of the State.

At this time the coal miners were working from 9 to 10 hours a day, the demand being for 8. Those who worked on the contract basis were required to mine 2,400 pounds per ton. It was demanded that 2,000 pounds should make a ton. Section 1 of chapter 55 of the session laws of 1901, provides as follows:

"All private corporations doing business within this State, except railroad corporations, shall pay to their employees the wages earned each and every 15 days, in lawful money of the United States, or checks on banks convertible into cash on demand at full face value thereof, and all such wages shall be due and payable, and shall be paid by such corporations, on the 5th and 20th days of each calendar month for all such wages earned up to and within five days of the date of such payment."

In the camps of the Colorado Fuel & Iron Co. and of the Victor Fuel Co. the scrip system operated as follows:

When a miner desired to buy goods previous to the regular pay day he obtained from the mine office an order on the company's store for such a valuation of merchandise as he might desire. If, upon the conclusion of his purchase, he did not wish to use the entire order, he was given the change in scrip. With this scrip he could

buy what he might desire at any other time. At the end of the month the orders issued were deducted from the monthly wage and the balance was paid him in cash.

The miners claimed that higher prices were charged in the company stores than in other places. They also had other grievances. They objected to being forced to live in the houses of the coal companies. They protested against the discharge of men for having joined the union. They desired, not only that 2,000 pounds of coal should be counted as a ton, but also that they should have their own checkweighman—one who would be a member of the union.

It will be seen that some of the grievances then are the grievances now. With the assistance of the State militia the operators broke that strike. There were deportations of the old workers and importations of the new; but, though the strike was broken, some points were ultimately gained.

The long struggle for an eight-hour law began in 1894; the law was demanded by the legislature; it was demanded by an overwhelming popular vote on a constitutional amendment, but it was fought by the mine owners for 20 years. This controversy was one of the chief causes of the bitter strike of 1903 and 1904 (pp. 74, 75).

The general mining statute of 1913, admitted to be a good law on the whole, was proposed by union men and opposed by the operators (pp. 24, 29), until they saw that some such law would be enacted, when they conferred with the legislative committee which had it in charge. Since 1897 the policy of the law has been expressed in a statute guaranteeing to employees the right to belong to labor unions. (L. 1897, p. 156; R. S. 1908, sec. 3925; see pages of this record 79, 247.)

There is no doubt that this statute has been violated repeatedly by some of the coal operating companies. We shall point out later the testimony in detail as to these violations. The matter is referred to now as showing the policy of the law of the State in recognizing labor organizations. But the present purpose of the coal operators—almost an undisguised purpose—is to destroy, so far as Colorado is concerned, the only union to which their employees may belong. Some of them will give one reason and some of them another, but in the purpose they are united.

By carrying on this fight against the union they are trying to nullify the underlying principle of unionism, the right of the workers to deal collectively with their employers for their own protection, for—

> The present function, par excellence, of the labor organization is collective bargaining, and collective bargaining, it is believed, is the inevitable precursor, historically speaking, of the era of industrial peace. (Labor Problems, p. 227, by Adams & Sumner; McMillan & Co., 1910.)

The injustice of the operators' position ought to be apparent to anyone who has followed this investigation and who possesses a sense of justice. The unreasonableness of their position is equally apparent. Seth Low points this out convincingly in his address as president of the National Civic Federation at Washington in March, 1912, when he says:

> It appears to me utterly impossible for stockholders, united in a corporation, to sustain themselves in the position of claiming for themselves every privilege of combination and, at the same time, to insist upon dealing with their employees only as individuals and to deny to them the right of collective bargaining. When a corporation declines to recognize a labor union, is it not doing precisely this? I understand perfectly that the employer would rather be entirely free to do as he pleases. The

precise point I am trying to make clear is, that he can not expect to be free to do as he pleases under the conditions of modern industry. Men are combining in all departments of life as never before, and industry can not possibly expect to be exempt from this world-wide tendency. The old personal relation between employer and employee has gone by the board, with the result that the men are, in a sense, forced to look after their own interests, because the impersonal employer, perhaps without meaning to be so, is less considerate of them than the employer was in the old days, when master and workman worked side by side. And, above everything else, the spirit of democracy is in the air, so that men who are constantly influencing the Government under which they live are naturally determined to have something to say about the conditions under which they are called upon to work. The employer can decline, as he often does, to recognize a union, and in that way he can provoke strikes, which, in their turn, result in violence. When he does this simply because he is unwilling to recognize a labor union he perpetuates, if he does not create, a state of war in industry; and he must share the responsibility for this result when he acts so illogically. The so-called open shop in most instances is not a shop in which union men and non-union men work side by side. Ordinarily it is a shop from which union men are excluded if they are known to belong to a union, or, if they are admitted, they are admitted only upon condition that they forego many of the advantages for which they join the union, conspicuous among the advantages to be derived being the right of collective bargaining through representatives of their own choice.

Mr. Low is a practical business man as well as a student, and this emphatic statement is especially important. He has been mayor of New York, mayor of Brooklyn, president of Columbia University, a partner in the importing house of A. A. Low & Sons, and has acted as arbitrator in many important industrial disputes.

Compare these views on collective bargaining with Mr. Rockefeller's (p. 2874):

Mr. ROCKEFELLER. There is just one thing, Mr. Chairman, so far as I understand it, which can be done as things are at present to settle this strike, and that is to unionize the camps; and our interest in labor is so profound and we believe so sincerely that that interest demands that the camps shall be open camps that we expect to stand by the officers at any cost. It is not an accident that this is our position——

The CHAIRMAN. And you will do that if it costs all your property and kills all your employees?

Mr. ROCKEFELLER. It is a great principle.

The CHAIRMAN. And you would do that rather than recognize the right of men to collective bargaining? Is that what I understand?

Mr. ROCKEFELLER. No, sir. Rather than allow outside people to come in and interfere with employees who are thoroughly satisfied with their labor conditions—it was upon a similar principle that the War of the Revolution was carried on. It is a great national issue of the most vital kind.

There is nothing so dreadful to this New York owner of Colorado mines and this importer of Pittsburgh strike breakers as some outside influence which will lead to collective bargaining.

In passing, it may be appropriate to quote from an important opinion of the Supreme Court of the United States in a case where employers sought to excuse themselves for a violation of law by suggesting that they were acting in the interest of their employees. In *Holden* v. *Hardy* (169 U. S., 366, p. 397), Mr. Justice Brown says:

It may not be improper to suggest in this connection that although the prosecution in this case was against the employer of labor, who apparently under the statute is the only one liable, his defense is not so much that his right to contract has been infringed upon, but that the act works a peculiar hardship to his employees, whose right to labor as long as they please is alleged to be thereby violated. *The argument would certainly come with better grace and greater cogency from the latter class.* But the fact that both parties are of full age and competent to contract does not necessarily deprive the State of the power to interfere where the parties do not stand upon an equality, or where the public health demands that one party to the contract shall be protected against himself.

UNION INCORPORATION.

It has been supposed that one objection of the operators to dealing with the union is because the union is not incorporated; but Mr. Osgood says (p. 440):

> I feel that the objects of the United Mine Workers, without being of sufficient benefit to their members, are so inimical to the interests of the operators that I would not contract *with them if they were incorporated.*

Mr. Rockefeller's reasons for not dealing with the union have just been quoted.

Mr. Osgood's reasons for refusing to meet the United Mine Workers are not so beautifully unselfish as are Mr. Rockefeller's, but neither puts his objection on the ground of lack of incorporation.

The matter of incorporation of unions was referred to occasionally during the hearings, and in the light of the foregoing typical attitude it would seem that too much importance is attached to this subject. One of the chief reasons given for the desirability of the incorporation of unions is that they may be sued more readily, but without their incorporation there may be a statute providing that an unincorporated voluntary organization may be sued by its common name, or that an action against it may be brought directly against one or more designated officers. Such statutes exist now in at least six of our States—Connecticut, New Jersey, Maryland, New York, Michigan, and Vermont. There is already in Colorado a provision of the code relating to suits against two or more persons transacting business under a common name, and, if necessary, a slight amendment to this statute would be sufficient to render unions suable, and the judgment in such an action could be made to bind the joint property of the associates. (Colo. Code Civ. Pro., sec. 14.) Moreover, incorporation, while doing away with individual liability, does not, of course, necessarily make the resulting legal entity wealthy, whether the incorporators are rich or poor. As a means of bringing about industrial peace, incorporation of unions would be of little use, for there are still many employers like Mr. Osgood who would no more deal with an incorporated labor union than with one unincorporated, for they object to the union in any form.

Some persons may maintain that the men above quoted are insincere in stating their reasons for opposing the union. It is, however, not necessary to charge them with insincerity. Ignoring as they do society's interest in coal mining, they are simply viewing the matter through their own interests. Mr. Welborn is very sure it is his business (p. 537), and Mr. Osgood thinks in the same way without saying so in just those words (pp. 475, 481). If they would regard the matter as the fact really is—as is certainly shown by the history of Colorado—that society has a great interest in their business, they would, in the first place, not have allowed, during these many years, discrimination contrary to law against union men, and, in the second place, they would at least have been willing to *confer* with the representatives of an organization with which a majority of their former employees are in sympathy.

Mr. Welborn states as a reason for not making a contract with the United Mine Workers that their contracts are broken in every district, but he gives no higher authority for such a statement, and

offers no better evidence than newspaper report (p. 538). By union men it has been claimed that it is one of the proudest boasts of the United Mine Workers that they do not violate a contract when it is once entered into (p. 288). It has been shown that practically all the operators in the great bituminous coal-producing States have contractual relations with the United Mine Workers, and many of them in other States have such relations (pp. 245, 246).

Letters from the Coal Operating Association of Iowa, and from leading operators there employing large numbers of men, show that conditions under union contracts have been entirely satisfactory (pp. 2515, 2516), and if anywhere these conditions have been as bad as our operators claim, it would have been perfectly easy for them to have brought competent evidence of that fact.

THE COAL MONOPOLY.

The great practical difficulty in Colorado is that the three largest companies produce 68 per cent of the coal of the State (p. 395), and represent by their influence 95 per cent of the coal production (pp. 463, 2686).

Hence they control the situation, and the smaller producers can not make a contract with the United Mine Workers, though they might be willing to do so, unless these controlling companies also make one. They are afraid, as the Routt County operators said, that they will be "put out of business" (pp. 2165, 2166). The great operating companies are combined for a common purpose, which is absolutely to dictate to all with whom they are concerned, directly or indirectly, how the great coal-mining business of a State shall be operated, and they intend to carry out this purpose with a ruthless disregard of consequences, immediate or remote.

To some this seems to be a fight for liberty, but under actual conditions it is a fight for tyranny. The true situation is woefully misunderstood by those who do not know the actual conditions as they have existed in the coal fields for years. To them the plausible claim of the operators that they are fighting for liberty has a satisfying and agreeable sound. The matter is well stated by a recent writer:

> In America the great mass of farmers, small tradesmen, and professional men, fail to sympathize with the trade-union through lack of an understanding of its fundamental aims and of the environment of the men who stand for those aims. The average outside individual objects to the trade-union, not because it insists on higher wages (which all are willing to concede—provided some one else pays them), but because it demands "the recognition of the union."
>
> Actually, however, in our more and more centralized industry this demand for recognition is the nearest possible approach to a real industrial democracy or even to a real industrial liberty for the workers. The kindly and often sympathetic opponents of the closed shop and of the recognition of the union appeal to the freedom of every individual, unionist, or nonunionist, to make a fair contract with his employer. It is perhaps a pleasanter ideal than collective bargaining with striking, picketing, and a compulsory membership in a union, but it is an ideal, which, for the present, is unattainable in many trades. (Weyl, The New Democracy, p. 293, note.)

THE MODERN ATTITUDE TOWARD FREEDOM OF CONTRACT.

A recent author, Prof. Groat, writing on the "Attitude of American courts in labor cases" (1911), completely answers the Rockefeller sophistries and admirably summarizes the correct modern view of regulation of freedom of contract (pp. 380–398) as follows:

> Conditions show that masses of men "of full age and competent understanding" have not the "utmost liberty of contracting." They have in fact nothing whatever to

say about what agreement they shall work under. Employed in wholesale numbers in a manner wholly impersonal, their choice is to take work on the terms offered or let it alone. Clearly every whit of freedom of contract lies with the employer. There are opinions that can not be carefully read without giving the reader the impression that the employer's freedom to make a contract suitable to himself was a consideration in the judge's mind more weighty than the workingman's freedom. Necessarily the employer's liberty must be limited as that of his employee is expanded. When a situation wherein the bargaining advantage lies so obviously on one side is sought to be remedied, the remedy can not be effected without restricting the side that formerly had the advantage.

* * * * * * *

Could any expression show more clearly the failure to appreciate conditions, failure to realize what scrip payment and truck stores mean, and the determination to enforce in modern conditions old meanings adaptable to surroundings that no longer exist? The employees are in fact deprived of the substance of liberty in order that they may have its semblance. The employers in fact are supported in a position of absolute dictators under cover of terms that imply equality. How striking is the contrast.

* * * * * * *

The situation so far as the contract relation is concerned reaches a conclusion so absurd as to be hardly believable. Clearly the employee class does not want long hours, irregular pay, or conditions of labor dangerous to health. To assume that workmen want such conditions is absurd. If, then, they do not want them it is scarcely less absurd to assume that they value the liberty which enables them to insist upon such terms. To the workman as a class such a freedom, judged by results, can be no freedom at all. Nor indeed are any cases to be found where the workmen are appealing to the courts for the protection of this right.

* * * * * * *

To protect every man in the exercise of his own liberty to choose conditions in which he shall work results to-day in permitting to one party, the employer, the arbitrary dictation of conditions in which the other, the employee, must work or starve. That such a situation is frequently recognized by courts is among the hopeful signs. That it has been so often overlooked is a chief cause for the dissatisfaction with our courts evinced by large numbers of our population.

* * * * * * *

Social legislation is clearly the order of the day because the problems to be dealt with by legislation are social problems. Justice is ever the thing sought. It was so in earlier centuries; it is so in the twentieth century. Social justice is now sought as individual justice was sought a century and more ago. Individual justice was sought before it had been clearly defined. The quest for it aided in the definition of it. So we have not a generally accepted definition of social justice. Yet, the pursuit of it is leading to a better understanding of its nature.

* * * * * * *

Instead of saying, as did the New York court of appeals (*People* v. *Coler*), that "a law that restricts freedom of contract on the part of both master and servant can not, in the end, operate to the benefit of either," it may be held that as a matter of fact, as industry is at present organized, a law restricting freedom of contract on the part of both employer and employee may and often will in the end operate to the benefit of both.

* * * * * * *

Freedom of contract, to repeat, is not an end in itself. It is clearly a means to accomplishing an end. When this end is defeated by the very means that are intended to accomplish it, then it seems that the means may fairly be held to be unconstitutional. That end may be expressed as "life, liberty, and pursuit of happiness," "life, liberty, and property," or "social justice." They must be the same. If legal limitation of freedom of contract furthers the ends of social justice by equalizing the conditions of bargaining it can not be in violation of the real purpose of the Constitution.

* * * * * * *

Regulative laws * * * are not only not positively unconstitutional; they are positively constitutional. They both modernize and vitalize these honored phrases with a new and a larger life. A new meaning is given to the Constitution. The way is opened for it to do for twentieth century civilization what it has done for nineteenth century civilization.

THE 1910 STRIKE.

Before turning to the more specific causes of the present controversy it seems necessary to refer briefly to the strike of 1910 in the coal fields of northern Colorado. As that strike has been continuous from its beginning in 1910 until the present time, and as it has affected some, at least, of the operators now involved in the southern field, it is closely bound up with the present strike; and some brief separate consideration of its principal features, particularly as brought out in the investigations made by the Colorado Legislature, is necessary to a complete understanding of the causes and conditions surrounding the present, or 1913, strike in the southern field.

As testified to by Mr. Doyle (pp. 2180–2188), various causes contributed to the northern Colorado strike, begun in 1910. The record showing is, however, one of relative simplicity compared with conditions in the southern field. The report of Colorado's legislative committee of 1913 concisely states the immediate demand and the preceding history in Weld and Boulder Counties. It appears (Colorado House Journal, 1913, p. 1630 et seq.), without contradiction, that for some years prior to the spring of 1910 the northern coal operators had worked their properties under contract with the United Mine Workers of America; that these contracts expired March 31, 1910; and that, prior to that date, new two-year contracts were considered between the parties, and that the negotiations were continued until April 4, 1910; that on that date, after consideration of the miners' demand for 5.55 per cent increase of wages for men working by the day and 3 cents per ton for men working by the ton, negotiations were broken off between the parties, and the men were ordered out on a strike, which has continued to the present time. The committee of the House delegated to investigate the strike divided as to the responsibility for the final breach in negotiations, J. H. Ferguson, a member of the committee charging the responsibility directly "on the representatives of the operators" (ib., p. 1639), the remainder of the committee reporting its inability to agree. The committee unanimously found, with reference to the justice of the demands for an increase of wages, that the average earnings prior to 1910 had varied from about $350 to about $500 per year, and that, in the light of this showing, the proposed increases were not unreasonable. The committee further reported (ib., p. 1637) that the attitude of the Rocky Mountain Fuel Co. in giving paramount consideration to its policy of maintaining an open shop, was unjustifiable under the circumstances, and the committee closed, as follow (ib., p. 1637):

> We renew our recommendations, however, to the parties to the controversy: That the members of the union should remove all occasion for just criticism of breach of contracts; that the operators should recognize the patent tendencies of the times toward organization of employees, as well employers, and should be willing to meet the conditions of the times by recognizing and contracting with labor organizations upon receiving satisfactory assurances of their responsibility.

THE 1913 STRIKE—SPECIFIC CAUSES OF THE STRIKE.

Turning now to a more specific consideration of the causes of Colorado's costly industrial controversy, perhaps as brief a summary as can be made, laying particular emphasis on the failure of the State

of Colorado to enforce its laws, is found in the statements of Mr. Lawson and Mr. McLennan to the committee (pp. 1308–1309), as follows:

Mr. LAWSON. * * * The fact of the matter is, Colorado to-day has laws second to none in the United States for the workmen, but because they have been denied this freedom, because at the elections these companies have dominated over their employees, * * * the right to organize was enacted in 1897 and the new law passed in 1911, and the miners of this State have never had the right to organize, particularly in these two counties; the truck order, or scrip system, was enacted in 1899, and we have the scrip system to-day. The checkweighman was enacted in 1897, and it is a notorious fact that if a man went on the tipples of those large companies, until just recently, he was kicked off by a gunman or a thug, and was not given an opportunity to get off in the right way. The eight-hour law was enacted in 1895. They tell you how they put it into effect—about a year ago—when the organization came into this field. This semimonthly pay-day law was enacted in 1901. I heard some of the operators around here not long ago state they were surprised, or words to that effect, that there was such a law in effect until 1913. That law has been on the statutes since 1901, and I would like to have the operators tell this committee how long they have lived up to these laws. * * * It makes no difference what laws there are on the statutes of this State. The operators have fought every law as consistently and as hard as they knew how; but, after all, when the laws are placed on the statutes they have absolutely not lived up to them in Las Animas and Huerfano Counties, and these gentlemen, whom I have not talked to, you may question them yourselves, will explain to you why, law or no law, it makes no difference to the three big companies that are operating in this field. * * *

Mr. MCLENNAN. * * * I want to corroborate the statements that have been made by Mr. Lawson. * * * The most important feature of the struggle that is now going on is the fact that the operators have persistently refused to allow their employees to belong to the union—a right that is established by law; but on account of their controlling the machinery of government of these two counties they have been able to prevent them enjoying that right, and for the last 10 years, to my knowledge I can say that there has been absolutely no law in these two counties except the will of the coal operators, and that was administered usually at the muzzle of a six-shooter. * * *

The justice of these dramatic accusations is substantiated by the testimony. Mr. Welborn, president of the Colorado Fuel & Iron Co., testified definitely as to certain of the laws mentioned. He stated (p. 500) that his company established the semimonthly pay day on February 1, 1913, and an eight-hour day March 1, 1913, and mistakenly added: "There was no law at that time calling for an eight-hour day." He added (p. 501) that, following an agitation, his company posted a circular at its properties April 11, 1912, notifying the company's employees of their right to checkweighmen, and that scrip was abolished January 1, 1913, for much the same reason that the notice was posted.

The testimony of Supt. Cameron, of the Hastings mine, a Victor-American Fuel Co. property, shows an almost identical situation as to the various laws and practices mentioned for that company (pp. 1524–1525).

In the light of these admissions, let us briefly review the different laws mentioned, and separately consider the record testimony, which clearly shows an habitual attitude of law violation on the part of the large coal companies in the southern fields.

THE COLORADO LAW AS TO THE SEMIMONTHLY PAY DAY.

Bearing in mind Mr. Welborn's statement that the semimonthly pay day was established by the company February 1, 1913 (p. 500), it will be of interest to know that by Colorado's session laws of 1901

(Laws of 1901, p. 128; 3 M. A. S. sec. 7727 et seq.), it was provided that all corporations except railroad, ditch, canal, and reservoir companies must pay their employees in lawful money, or by checks on banks convertible into cash on demand at full face value, on the 5th and 20th days of each month, for all wages earned up to five days previous. Failure so to pay causes a penalty of 5 per cent to attach, and any contract attempting to evade the provisions of the act is made void. The wages of discharged employees are made immediately due and payable upon their discharge, and failure to pay subjects the offender to a penalty of 5 per cent. It is provided that domestic corporations organized subsequent to the passage of the law shall be deemed to have been incorporated with reference to it, and a willful violation of its provisions is made a ground for forfeiture of their charters. This act, therefore, was almost 12 years old before it received recognition from the Colorado Fuel & Iron Co.

ILLEGAL DISCRIMINATION AGAINST UNION MEN—THE LAW.

By Colorado's Session Laws of 1897, page 156 (Rev. Stat., 1908, sec. 3925; 2 M. A. S. sec. 4474–4475), in force June 17, 1897, it was made unlawful for any individual or corporation to prevent employees from forming, joining, or belonging to any lawful labor organization, union, society, or political party, or to coerce employees by discharging or threatening to discharge them because of their connection with such bodies. Violation constitutes a misdemeanor, the penalty being a fine of $100 to $500, or imprisonment from six months to one year, or both.

By Colorado's Session Laws of 1911, page 8 (2 M. A. S., secs. 4476–4477), in force March 27, 1911, it was made unlawful for any employer of labor to demand as a condition of employment, or of the continuance of employment, any agreement, written or otherwise, that the employee shall sever connection with or refrain from joining any lawful organization; or under any pretense whatever to prohibit, limit, or restrain the employee from exercising his social, financial, fraternal, or business rights in connection with any lawful organization. Violation is a misdemeanor punishable by fine of $50 to $500 or imprisonment from 90 days to 6 months.

THE TESTIMONY.

Notwithstanding this legal situation there are intimations, coupled with direct testimony, scattered throughout the long record of this investigation showing the most persistent hostility on the part of the coal companies of Colorado to all efforts to organize.

Both these statutes have been repeatedly violated by the agents of the coal-operating companies. A general denial of the violation of the law has been entered by the operators; but specific instances of such violation have been testified to, as to which no denial has been made. Witness Picitelli, for example, testified as follows:

> Q. Mr. Dain told you you were laid off——A. Because I talked about the union; because I come to Trinidad every Sunday and talk about the union, and that is why I have to discharge you, and I don't want to do it because I have to, because the men I work for tell me to discharge you (p. 1248).

In 1906 at Walsenburg, John R. Lawson, international representative and organizer for the United Mine Workers, as shown by the

testimony of witness McQuarrie (pp. 2379–2380), was arrested under the direct orders of Sheriff Farr on a framed-up and wholly unwarranted accusation. Senator Tanquary stated that about three years ago (pp. 2269–2270), while conducting an employment agency, he was directed by a representative of the Colorado Fuel & Iron Co. not to send the sort of men for coal mines he had been selecting, because they were too intelligent and looked as if they might be organizers. Dr. McDonald, Methodist Episcopal minister, stated that during the year 1912, while a strike was being talked of, the town marshal at Hastings frequently stopped the hacks for the discovery of objectionable persons, by that meaning supposed union men, and that on one occasion, between 1910 and 1912, the witness observed two deputy sheriffs or guards "herding out" three miners who were suspected of being union men (pp. 2019–2020). He said:

> I made inquiry as to what the trouble was, because I thought that there must be a terrible charge to have them herded out of town in this way; that they must have been guilty of murder or some other terrible crime, and I found that the trouble was that they were suspected of being union men (p. 2019).

These are but samples of the discrimination along these lines, of which the record continuously speaks. It ties up with many evidences of blacklisting for the same cause. Witness Zanatell testified that Supt. O'Neill ordered him out of Berwind, stating that he did not like to discharge a man because he belonged to the union, in the course of a conversation in which the superintendent said it was necessary to protect himself, and in which he intimated strongly that information had been received that Zanatell's brother was a union organizer (p. 1073); and the witness added that, on one occasion, while acting himself as foreman at the Majestic mine, he was obliged, under orders from Supt. Zook, to discharge two men, and so advised them, because they belonged to the union. Witness Fyler (p. 1092) gave an instance of a Slav who, in or about 1912, was marched out of Delagua by a mine employee, the latter holding a six-shooter in his hand, for talking of the union, and the witness added that if a party said anything in regard to the union at Tabasco at that time he certainly would have to leave the canyon, whether he had a family or no family (p. 1092).

Witness Wennberg, speaking particularly of blacklisting, stated that in 1912, while the witness was mine foreman at Bowen, the superintendent came to him, and rebuked him for making too many remarks about the union, warning him that he would be discharged unless he stopped talking; that in 1908, at Bowen, the superintendent told him that two men named Westman and Carlson could not work any longer in the mine because they were union men, his conclusion being based on the fact that they were receiving through the post office a paper inclined toward unionism, and in 1903 at Hastings the witness and one Poli, the mine foreman of No. 2, each received a list of names of persons required to be discharged because they were union men, notwithstanding the fact that in the witness's opinion they were the best men he had in the mine (pp. 307–309). Witness Garnier (pp. 2178–2179) gave testimony leaving little doubt that he was blacklisted throughout southern Colorado, other miners being put to work while the witness was denied employment.

Witness Henness (pp. 1930–1933) cited an instance where Sheriff Jeff Farr, of Walsenburg, wanted two men discharged solely because

they were union men. Witness Lawson stated that the organization reports show the discharge of about 6,000 men in 1903 because the men belonged to the organization (p. 212). He also gave an instance of an organizer named Oberinsky, at Rugby, being killed because of his organizing activities on behalf of the Western Federation of Miners (p. 285). Witness Wilson (pp. 672–674) read into the record blacklisting letters, brought to the attention of the witness in 1908 by the town marshal at Bowen, discriminating directly against specified organizers for the United Mine Workers of America. He further called attention to the use of "spotters" (p. 669) to detect union men among the employees of the Victor-American Fuel Co., and to the fact that union men concealed their organization activities, knowing that they could not hold their jobs if they told anybody of them. He gave instances of arbitrary orders to men to "hit" the trail or road (pp. 671–674), and testified to the frequent use of blacklists (p. 675). Witness Sikoria testified to being discharged at Oak View "about the union" and because the witness wanted to try to organize (p. 692). Witness Fyler stated that it was the evident policy about Tabasco to discharge union men and cited an instance of three or four men being discharged at Berwind on that account (p. 1095). Witness Militello, who had lost a leg in a coal mine accident, stated that Supt. Jennings blacklisted him as a peddler and that the marshal at Cokedale assaulted, dragged, beat, and broke a buggy whip over him because he was a union man (pp. 2075–2076). Witness Gilbert, at the present time a member of the Colorado Legislature from Fremont County, testified to being blacklisted in certain mines prior to 1906, and that because of his affiliation with labor organizations and his advocacy of the rights of men he has been kept out of work by the Colorado Fuel & Iron Co. "for quite a few years" (p. 2362).

The record continues (p. 2369):

By Mr. SUTHERLAND:

Q. When you went to Mr. Beech for a place there, living in the same town, what reason did he give you for not employing you?—A. He says it was out of his power to get me work.

Q. What did he mean by that?—A. He meant that I was simply blacklisted from the 1903 and 1904 strike.

Q. Did he complain about the quality of your work at any preceding time?—A. No, sir; I am a practical miner.

Q. Do you mine as much coal as the average miner in a given place?—A. Yes, sir.

Q. He didn't tell you you couldn't mine enough coal, did he?—A. No, sir; he can't tell me that, because it is not the truth.

Q. Didn't complain about your not being industrious?—A. No, sir.

Q. He knew you had property there in town, which was more convenient for you to live in than elsewhere?—A. Yes, sir.

Q. Was he taking on men—did he need men?—A. Yes, sir; he was taking on all he could get.

Q. You went to him many times; how many times?—A. I went to him several times.

Q. And he wouldn't give you a job?—A. No, sir; I wasn't the only one. There were many others that happened—just happened—to be local officers or unlucky to be that way, you might term it, of the wind-up of that strike of 1904.

On the other hand, a few only of the mine superintendents were called. Cameron, one of them, was called and recalled, and made no denial of the statements sworn to in detail by witnesses. (See, for example, p. 308.) Snodgrass was also called and recalled, and did not deny discrimination against the union specifically testified to

(see pp. 672, 673), though he does make a general statement that he did not discharge men for belonging to the union. It is, indeed, significant, in view of the amount of testimony given on this matter of discrimination against union men, that out of the great number of mine superintendents only four were called by the operators as witnesses (Cameron, Jolly, O'Neil, and Snodgrass).

In the face of such testimony, and much more which might be summarized, the conclusion would appear to be overwhelming as to the worthlessness of Colorado statutory law as to union organization and as to blacklisting.

The Colorado law on the subject of blacklisting is pertinent in this connection, and it should be sufficient to cite it without further analysis of the testimony, from which we have already shown flagrant and long-continued violation.

THE COLORADO LAW ON BLACKLISTING.

The first Colorado statute on this subject became effective July 2, 1887 (Laws of 1887, p. 58; 1 M. A. S., sec. 461; Rev. Stat., 1908, sec. 396). This act is still in force. It provides that no corporation nor individual shall blacklist or publish any discharged employee with the intent and for the purpose of preventing his getting employment from any other individual or corporation. It provides that violation shall be a misdemeanor punishable by fine or imprisonment.

In 1897 (Laws of 1897, p. 118) an act was passed prohibiting blacklisting and providing that on demand by any dismissed employee the employer shall furnish a written statement of the specific reasons for his dismissal. This act was repealed in 1901 (Laws of 1901, p. 77).

In 1905 (Laws of 1905, p. 160; 1 M. A. S., sec. 467; Rev. Stat., 1908, sec. 401) an act was passed covering much the same ground as the act of 1887, adding, however, a proviso that the act shall not prevent a former employer from imparting a fair and unbiased opinion of a workman's qualifications when solicited by a later prospective employer.

In this connection it may not be amiss to cite the language of a standard text writer on this subject. In 5 Labatt, Master and Servant, second edition (p. 6292 et seq.). the author considers the decisions on the subject of blacklisting under the various heads of libel, conspiracy, actions on the case, and suits for injunctions. He then says (p. 6300):

> The present writer has no hesitation in expressing the opinion that the broader considerations of public policy point very decidedly to the conclusion that blacklisting should be greatly restricted, if not entirely prohibited, by legislation, in so far as the practice takes the form of an exchange of circulars or notices between different employers. There is, no doubt, considerable difficulty in framing provisions which will afford adequate protection to employees and at the same time not trench unduly upon the privilege of communicating information regarding their character to persons who are interested in ascertaining the truth; but it is apprehended that any harm which may result from a moderate limitation of the rights of employers in this respect will be slight in comparison with the evil consequences which are certain to follow if a practice so essentially repugnant to the free institutions of Anglo-Saxon civilization as that of systematic blacklisting is allowed to remain unregulated. The inevitable effect of such practice must be the subjection of a constantly increasing number of employees to disabilities and restrictions scarcely less oppressive than those to which servants were formerly subjected in England by statutory provisions, long since obsolete, and to which they are still in some measure subjected by the laws of a portion of the countries of continental Europe. A passport system of this kind has

always been found to be productive of serious evils, even when it is worked by public officials, and it must be much more dangerous to leave in the hands of private parties so formidable an instrument of potential tyranny, capable of being used, and, as human nature is constituted, certain to be used, in many instances, as the means of gratifying personal animosity or class hatred.

THE COLORADO EIGHT-HOUR LAW SITUATION—THE TESTIMONY.

The record also sufficiently suggests how fundamental a cause of the strike the disregard of eight-hour legislation has always been. Dr. McDonald, the Methodist Episcopal minister, testified (pp. 2021–2) that the Victor-American Superintendent Cameron on one occasion circulated a petition against the eight-hour day. Cameron himself stated he did not know how long the eight-hour day had been in vogue at Hastings, but at the time of the investigation they had had it "several months." The "14-year" fight for an 8-hour law is comprehensively described by Witness Gilbert (p. 2370) and Witness Brake as among the special causes leading up to the strike (pp. 74–5).

In connection with this testimony some significance attaches to a review of Colorado's eight-hour laws.

THE LAWS.

For State, county, school district, and town work, an eight-hour day was established by the laws of 1893, page 305, amended by laws of 1894, page 85 (Rev. Stat. 1908, sec. 3921; 2 m. a. s., sec. 4468).

The constitutionality of this law was upheld in *Keefe* v. *People* (37 Colo., 317, 322).

An act regulating the hours of labor in underground mines, etc., was approved March 16, 1899 (Laws of 1899, p. 232). This law was held unconstitutional in *In re Morgan* (26 Colo., 415).

As a result of the holding of the supreme court in *In re Morgan, supra*, the legislature of 1901 submitted a constitutional amendment (Laws of 1901, p. 108), which was adopted November 4, 1902, and is now section 25A of Article V of the constitution. This amendment is in effect that the general assembly shall provide by law for a period of employment not to exceed eight hours per day, except in cases of emergency, for persons employed in underground mines, smelters, etc., or other labor that the general assembly may consider injurious or dangerous to health or life.

In *Burcher* v. *People* (41 Colo., 495), this amendment was considered in connection with the so-called women and children act (Laws of 1903, p. 309), regulating the hours of work for women in mills, factories, shops, etc., and it was there held that, under the amendment, the legislature must first find and declare that the occupation is injurious to health, before limiting the hours of labor therein, and *that the act in question is invalid* because that had not been done, and also because it failed to express in its title the real purpose of the act.

On March 21, 1905 (Laws of 1905, p. 284; Rev. Stat., 1908, sec. 3912), an act was approved declaring all labor of miners in underground mines and attending blast furnaces, etc., *which labor is in contact with noxious fumes*, gases, or vapors, to be dangerous, and limiting the period of employment to eight hours per day, except in an emergency. Violation was made a misdemeanor, punishable with fine of from $50 to $300.

On August 31, 1911, there went into effect an act repealing the foregoing act of 1905, and at the same time passing another act broadening its scope (Laws of 1911, p. 454; 2 M. A. S., sec. 4471–4473). This act declared *all work* in underground mines, underground workings, smelters, etc., to be injurious to health, and prohibited work of more than eight hours per day, providing also that violation shall be a misdemeanor punishable with fine of from $250 to $500, or imprisonment from 90 days to 6 months.

This bill was referred under the initiative and referendum law, and was voted upon at the general election of November, 1912, and approved, becoming effective January 22, 1913. (Laws of 1913, p. 688.)

Meanwhile, another act like the act of 1905 was initiated, was also voted upon at the general election in November, 1912, and was also carried. This act declares employment in underground mines, smelters, etc., to be injurious to health *wherever such employment is continuously in contact with noxious fumes*, gases, and vapors, and prohibits such employment for longer than 8 hours in 24. (Laws of 1913, p. 690.)

The effect of the simultaneous passage of these two conflicting laws, being a matter of some debate, was submitted to the supreme court by the senate during the session of 1913 (*In re Senate Resolution*, 54 Colo., 262). The legislature had under consideration a bill repealing the law of 1905, and also the law *initiated* and passed at the November, 1912, election. The senate propounded to the supreme court several questions involving the validity of the referred act of 1911, and the initiated act of 1912, and as to the legal effect of the passage of both these acts at the election of 1912. These questions the supreme court declined to answer, on the ground that they were completed legislation and that private rights might have attached which should not be determined in an *ex parte* proceeding. The court did advise the senate, however, that the legislature has power to repeal an initiated act and that it also has power to prevent referendum of an act by determining and declaring that the act was necessary for the immediate preservation of the public peace, health, and safety.

Pursuant to this advice, the legislature passed an act which became effective April 3, 1913 (Laws of 1913, p. 305), declaring employment in underground mines, underground workings, smelters, etc., to be injurious to health, limiting the period of employment therein to 8 hours within any 24, except in cases of emergency, and providing that violation shall be a misdemeanor punishable by fine of from $250 to $500, or by imprisonment from 90 days to 6 months. The act also repealed the 1905 law, further repealed the initiated law of 1912, and declared that the act was necessary for the immediate preservation of the public health and safety.

THE TRUCK SYSTEM, OR SCRIP AND TRADING AT COMPANY STORES—THE LAW.

In 1897 the Colorado Legislature had under consideration a bill for an act to abolish the use of scrip in payment for labor, making it unlawful for any person or corporation to issue to any employee in payment of wages any scrip, token, or draft payable or redeemable otherwise than in money. This bill, after passage by the house and

while pending in the senate, was submitted to the supreme court upon questions as to its constitutionality. The court refused to pass finally upon the questions, for the reason that it appeared that the bill was not in final form. It expressed the opinion that the legislature may, in the exercise of the police power, enact laws of this character when necessary to prevent oppression and fraud, and for the protection of classes of individuals against unconscionable dealings. (*In re scrip bill*, 23 Colo., 504.)

The act in question in the above case was apparently never passed, but on March 31, 1899, the present law on the subject was approved and became effective. (Laws of 1899, p. 425; 3 M. A. S., sec. 7735; Rev. Stat., 1908, sec. 6989.)

This act makes it unlawful for any person or corporation to employ the truck system, which is defined as being (1) any agreement or understanding used by the employer, directly or indirectly, to require his employee to waive payment of his wages in money, and to take the same in goods of the employer or any other person; (2) any condition in any contract of employment, direct or indirect, or any understanding whatsoever, express or implied, that the wages of the employee shall be spent in any particular place or manner; (3) any requirement or understanding whatsoever by the employer with the employee that does not permit the employee to purchase the necessaries of life where and of whom he likes, without interference, coercion, let, or hindrance; (4) any arrangement for charging a discount or interest on advances of wages where pay days are at unreasonable intervals; (5) any arrangement by which any person may issue a truck order or scrip by means of which the maker may charge the amount to the employer to be deducted from the wages of the employee.

The act provides that any scrip issued in furtherance of such truck system shall be void in the hands of any person or corporation with knowledge that it was issued pursuant to such system; that violation of the act shall constitute a misdemeanor and cause forfeiture of the charter of a domestic corporation and of the right to do business of a foreign corporation, and for prosecution by the district attorney, as in other criminal cases.

In the case of *Knoxville Iron Co.* v. *Harbison* (183 U. S., 13; 1901), hereafter cited, it will be remembered that the United States Supreme Court upheld the constitutionality of a statute of Tennessee *requiring scrip or store orders to be redeemed in cash.*

THE TESTIMONY.

The use of scrip by the Victor-American Fuel Co. at Delagua was testified to by witness Holt (p. 1570), and the same practice at Forbes, before the strike, by the Rocky Mountain Fuel Co., was shown by witness Zanetell (p. 1080). The continuing practice of using scrip at the Hastings mine was likewise testified about by witness McLeod (p. 1470).

It was not until the year 1913 that the Colorado Fuel & Iron Co. abolished the system of scrip. Mr. Weitzel testifies (p. 1798):

> I was always against the scrip system, for the reason that I thought it taught improvidence to the men. They could run to the office and get their money every night, if they wanted to, or get their scrip, and it seemed to me that it taught or encouraged

improvidence. I think any man is better off by being paid at stated times rather than every day.

It is, however, used by the other coal operators. It is sometimes issued by the "store company," which is owned by the mining company, and this method of issuing is in reality a subterfuge (pp. 1531, 1532). The company will not cash it at its face value (p. 1470), and Supt. Snodgrass testified (p. 1211) that the company would not take scrip off the miners' hands at all.

Q. In other words, if a man takes scrip, the company regards him as under a contract that he will spend that in the company's store. Is that right?—A. Yes (p. 1211).

The use of scrip necessarily involves dealing at the company store, unless the miner is willing to part with it subject to the deductions made by others. The store company, of course, fixes the prices, and in some instances these prices are higher than they are in other stores (p. 2008).

The system is at the best an evasion of the State law, and in some of its operations a direct violation of it. In these closed towns, where the only store is the company store, the men must trade there or go beyond the limits of the town (p. 1524). There is, indeed, a general understanding that the miner must trade at the company store (p. 1096), and this understanding amounts in some places to compulsion (pp. 1080, 2161); as peddlers and farmers are excluded from the towns, the company store has a monopoly (pp. 1938, 1972, 1984).

CHECKWEIGHMEN AND SHORT WEIGHTS IN COLORADO—THE LAW.

By Colorado's Session Laws of 1897, page 137 (Rev. Stat., 1908, sec. 665; 1 M. A. S., sec. 806), in force June 29, 1897, it was provided that in all coal mines working 20 or more miners underground, a checkweighman may be employed, to be selected and paid by the miners; that the owner shall give him free access to all scales and weights, and all books wherein weights are recorded. It is a misdemeanor for any mine owner or operator to refuse him access to scales or books, the punishment being a fine of from $25 to $500.

THE TESTIMONY.

The testimony of violations of the checkweighmen statute, in addition to what has been reviewed, shows the following situation:

Witness Stark, speaking of the fact that the miners never had a checkweighman at Tabasco (p. 2038), added that the reason was that the miners were discharged before they could do anything in that direction. Witness Fyler (p. 1105) substantiated this view, with the modification that Supt. O'Neill came to him just before the strike and offered to allow a checkweighman at Tabasco. Witness Miller affirmed the same facts of the Walsen and Robinson mines (p. 1958). Witness Game, who testified to working in many mines, stated that there never had been a checkweighman at any mine in which he had worked in Colorado (p. 1109). The evidence tended to show that the men realized their need of a checkweighman and that in his absence they were being subjected to short weights (p. 1952), and that in Fremont County, where checkweighmen were allowed, the men were satisfied with their scale weights (p. 1961).

The lack of correct weights and of checkweighmen was one of the grievances of 10 years ago. (Report of United States Commissioner of Labor on Labor Disturbances in Colorado, p. 331, published in 1905.)

There has been a mass of testimony submitted to the committee as to short weights. It is not conceivable that the complaints would be so general were they not based on facts.

Miners of long experience testify that short weight has been "the main complaint" (p. 1007); that "it was short weight all the time" (p. 878); again, "I thought the weight was getting worse all the time" (p. 2372).

It is clear that at many mines the scales have been inaccurate (pp. 77, 78, 2034, 2182, 2303). Besides general statements, more specific instances of short weight are testified to, as, for example, Bell stated that while he was superintendent he found the men were not getting full weight (p. 195). The mine foreman at Bowen learned of it there (p. 311). Another witness testified as to this mine (p. 859):

Q. How do you know you didn't get your weights?—A. Well, there was one way I could tell—by the car; that there was more than a ton in it; sometimes 2 tons. Sometimes a man would get 25, 28, 30. On the two cars I loaded I loaded both the same, both the same-sized cars—I got one 28; another one, I think, about 37.

A driver tells how he switched a small car and a large car and proved in this manner the short weight (p. 1970). A Hastings miner testified how he and his buddy were docked alternately, though they loaded the same kind of cars, in the same room, in the same way (p. 1275). The witness Ray gives particular instances of short weights (pp. 2006, 2007), as does Owens (p. 2034).

Nearly every miner witness testified that the men feared discharge if they should request a checkweighman. It seems true that the real explanation of the situation is that given by Peet: The having a checkweighman is a step toward recognition of the union (p. 1944; see pp. 2038, 2366); the men thus become bound together and cease being those "individual" contractors with whom the operators so much desire to deal.

Members of the committee were naturally curious to get at the motive for short weighing; whatever the motive may be, the fact exists. One of the explanations, probably, is that each subordinate officer is trying to make the best possible showing in his special work or department. Mr. Murray, general manager of the Victor-American, testifies (p. 1904):

Q. That question has been asked several times—of the possible motive anybody could have for short weighing the coal. In some cases it might be found in the ambition of somebody to reduce. He wouldn't personally benefit by it except by making a better showing for his plant?—A. His own cost; it would affect his own cost.

Q. So that, while the persons short weighing the coal wouldn't receive any benefit beyond what he and those who are responsible for the conduct of the mine would get credit from the company—from Mr. Osgood, for instance, the president of the company, who naturally *expects you all to make the best showing possible?*—A. *That is what we are there for, sir.*

Short weighing seems to have been such a common matter in Colorado that it is hardly regarded by the superintendents as a grave offense. Its exasperating and, indeed, unendurable injustice can not, however, escape attention. Alone and unsupported, a grievance of this character is so insistent and pervasive as to foreshadow, and, if unrelieved, compel industrial revolt in the form of strikes. It lends color to every charge of greed. The miner is persuaded that

his pocket is being daily, hourly, and systematically plundered. Nothing compensates for this growing sense of wrong; and the talk of good wages from a feudalism purporting to be benevolent, presents itself to the worker only in the light of hypocritical denial of the wages to which the worker is really entitled, and of which he is admittedly and continuously deprived.

THE MATTER OF WAGES.

As just suggested, confronted by uncontroverted conditions and grievances like these, the operators seek to divert attention from them by the citation of individual cases of alleged good wages. From thousands of employees, they choose selected instances on which unstintedly to pride themselves. It might naturally be suggested that their feudalism has the added similarity to its medieval model of occasional favorites and beneficiaries and instances are even paraded to conceal the general practice. No adequate light is attempted to be thrown by the operators—not to mention the injustices already complained of—on the cost of living, on deductions, on averages, or on annual earnings in an occupation admittedly both seasonal and dangerous.

At the outset it is asserted and apparently conceded that higher wages are paid to coal miners in Wyoming than in Colorado (pp. 84, 86). Mr. Osgood's statement is as follows (p. 431):

> The day wage for timber men in Wyoming is $3.45 a day; in Colorado $3.12 a day; for track layers it is the same; for shot firers they pay in Wyoming $3.90 and in Colorado $3.24. The machine runners in Wyoming are paid $3.90 and in Colorado $3.84. You can see there is no continuity. I am just giving you a few of these. Machine helpers, $3.45 in Wyoming and $3.36 in Colorado. So that I can not figure the average. I can only say that their wages as a rule are higher for day labor than ours are.

The averages in Colorado do not show phenomenal earnings. Witness Hammond estimates his average monthly earnings at $85, and states he "was getting about the best of the run of the mine"; that he "had no complaint," but, on the other hand, had two brothers who would never dig coal under the conditions in southern Colorado to-day (p. 1013). Witness Anderson estimated his average earnings at $80 a month for the year preceding September 1, 1913 (p. 1969). State Labor Commissioner Brake, speaking of the varying scales of wages paid miners, and taking the Berwind property as an example, testified the average gross wages per miner per year in 1912 was $669.82, and that the average gross earnings per day for the 312 days would be $2.24. This would leave only 11 idle days in the year, and does not include some fixed charges, such as buying powder and smithing (pp. 84, 85). It is true that Mr. Welborn took issue with these figures. His testimony shows the facility with which different averages may be figured, and, in fact, the misleading character of any unexplained tabulations (pp. 521, 522). Mr. Welborn allows deductions of "about $25 or $26 a year" (p. 522). The miner's monthly earnings so estimated run from $83.60 to $95.52 (p. 522), save in exceptional cases, where men are earning more.

These figures include payment, wherever there is any, for dead work. It is manifest, as testified, that conditions in the different mines affect all earnings and averages (p. 603). The witness who testified as to this made the interesting suggestion that the unions

had bettered wages, but not earnings; that the average earnings of a coal miner in northern Colorado had been from $350 to $600 per year prior to the strike, and that after the strike the average earnings were $868 to $918 (pp. 602–603). Witness Thomasela testified to average earnings for coal miners at Wootton of $75 a month. There, as in many other cases with varying conditions (p. 188), the workmen were docked in wages for impurities in the coal. This is, of course, something apart from the complaints already referred to on the score of short weights. The serious character of the docking is shown by the testimony of Witness Glad (p. 1275), by whom a loss of as much as three cars in one day is reported. This witness testified to earnings of approximately $65 a month, the highest earnings being just before the strike (p. 1276). Witness Murray, formerly superintendent of the Colorado Fuel & Iron Co., more recently with the Victor-American Fuel Co., supplemented the testimony about higher wages being paid coal miners in Wyoming by stating that the wages are also higher in Montana than in Colorado (p. 1895).

The record showing on the whole subject of wages, as already indicated, must be read in the light of the admitted dangers of the occupation, the just grievances along all other lines of employment, and the deductions partly testified to and clearly inherent in the work, not to mention the cost of living in the coal-mining fields. There are one or two intimations as to deductions which may be mentioned in passing. Witness Williams testified to a deduction of $1 for the doctor, although the witness had worked but one day at Sopris, the deduction on this score being commonly $1 per month (p. 1117). Witness Game testified to expenses, termed by him deductions, of $6 for the house rent, taken out for the whole month from the first half pay; $1.05 for electric lights for three rooms; 50 cents for blacksmith; 50 cents for bath; $1 for hospital; and a total of about $16 for the first half of the month (p. 1109). It is manifest that testimony along these lines is endless, but the recital of so much is thoroughly illustrative of the innumerable human elements that enter into any consideration of the average or any wage in coal mining; and, as said before, fundamentally we are brought back from the question whether of low, high, or average wages to the justice of the grievances of the coal miners all along the line of their employment.

PREVENTABLE MINE ACCIDENTS AND DEATHS.

The extremely hazardous conditions surrounding the coal mining industry in Colorado might be fully elaborated from the record. It is almost sufficient for our purposes, however, to direct attention to the statistics and statements in the evidence of James Dalrymple, the State inspector of coal mines. His State report (Bureau of Labor Statistics, 1911–12, pp. 263–264) shows a total of fatalities in 1911 and 1912 in the coal-mining industry in Colorado of 189, a total number of injuries of 661, with one dust explosion at Cokedale, where 17 men lost their lives, and one gas explosion at Hastings, where 12 men met death. That the toll of death continues is shown by the catastrophe at the Vulcan mine, on the western slope, occurring since the State report cited, but testified about by Mr. Dalrymple (pp. 28, 31, 43), where 37 miners were killed. Mr. Dalrymple's testimony is particularly impressive because it appears that the

dust explosion was due to lack of use of the apparatus the mine possessed, and the fatalities were, therefore, preventable (p. 28). He also testified that, in his judgment, the accident was due to the superintendent and the mine foreman (p. 43), and that the property was run as a nonunion mine, when, in fact, generally speaking, it would have been safer for the men if run on a union basis (p. 32).

Mr. Dalrymple's testimony is, further, of the most tragic character, compelling an unusual sympathy for the situation of the coal miners in Colorado, in that he testifies that from the time Colorado started to produce coal until 1909, the number of deaths in this State in the coal-mining industry have been nearly two to one for the United States as a whole, and that from 1909 to 1913 about three and one-third to one (p. 21). He testified further (p. 22) that a great many of the accidents from falls of rock and falls of coal are preventable, and that they could easily be cut in two. This view was supported by his record as State inspector of coal mines, published by the Bureau of Labor Statistics (Bureau of Labor Statistics, 1911–12, p. 264), wherein appears the following statement:

> In going over the reports of fatalities made by the deputies and myself, my opinion is that over 50 per cent of all the fatal accidents were avoidable. This is especially so of the accidents from falls of rock and coal. In the majority of the accidents the deceased or injured person is held responsible because of negligence on his part. I do not agree with this, because I believe incompetence, and not negligence, is the cause, and the person who is so incompetent that he knows practically nothing about the business in which he is engaged, and is able to understand practically nothing of what is said to him by those in charge, should not be held responsible for accidents to himself or others through his actions.

It is characteristic of the lack of intimate knowledge on the part of coal operators of the coal-mining business that Mr. Osgood, when asked whether he knew the facts as to between 1,300 and 1,400 deaths having occurred from mining accidents in Colorado since 1896, answered: "I do not," and that Mr. Osgood disagreed with the State coal mining inspector as to the recognition of the unions having anything to do with the diminishing of accidents (p. 470).

WORKERS' COMPENSATION FOR ACCIDENTS AND DEATH AND CORONER'S JURIES.

An attempt was made early in the hearing to create the impression, particularly with reference to the Colorado Fuel & Iron Co., that a liberal practice of settlement in cases of damage had relieved the company from any great frequency in the bringing of damage suits (pp. 495–496) and, in the same connection, the humanitarian attitude of the same company through the maintenance of hospital facilities and care for families was emphasized (pp. 494–495), although the admitted practice of collecting $1 a month from each of the thousands of employees of the company would naturally create an annual hospital fund considerably in excess of $100,000.

The testimony as to the actual practices in Las Animas and Huerfano Counties, so far as the same was specifically taken, does not support the glowing picture painted by their head officials on behalf of those companies. The pathetic case of Mrs. Easley (p. 1872) is an instance in point. Her father, W. H. Bradley, was killed June 13, 1910, while working at the Primero mine cleaning up after the

disastrous explosion there of that year. He had been a weigh boss and checkweighman at Sopris. He was killed by a fall of rock, and the witness testified that counsel for the company stated that she and her mother ought to be satisfied with a $20 casket in settlement. According to the witness, counsel later denied knowledge of her father's death (pp. 1872–1875). The coroner's jury was reported to have rendered a verdict in the matter, but no records were discovered (pp. 1874, 1897). The case derives added tragedy from the fact that the widow is in a private sanitarium suffering from insanity caused by her husband's death (p. 1873).

For manifest reasons, no attempt was made to add such stories to an already lengthy record. Enough understanding of the legal situation as to workmen's compensation in southern Colorado may be derived from the review of some of the testimony bearing on coroner's verdicts. Witness Campbell, undertaker and deputy coroner, custodian of the records, testified from them (p. 1829) that in many cases of violent death no inquests were held; that the names of jurors by oversight were omitted from such records in the coroner's office; that a foreman named Baldwin, who acted in that capacity in all recorded cases except six in the two years 1911 and 1912, was an old-timer with plenty of leisure, and the witness expressed the opinion that the record in the case of Wyatt Buckner, age 40, whose death was attributed to an accident by fall of rock, with the notation: "Accident; fall of rock in mine; internal injuries; pelvic region; no relatives and damn few friends," was not the ordinary and usual verdict. It is submitted that in view of the evidence just referred to, whether the verdict was usual or not, it was typical of heartlessness and judicial maladministration in the entire coroner's jury system so far as revealed in Las Animas and Huerfano Counties. Many of the records were shown to be missing (p. 1832), including the record of death of Mrs. Easley's father. Witness Weitzel, general manager of the Colorado Fuel & Iron Co. for the past six years, admitted that during that time few coroner juries' verdicts suggesting negligence on the part of the company had been rendered in case of fatal accidents.

The only exception he recalled was the verdict in the case of the Starkville explosion (p. 1805). The record shows as a typical verdict that of a coroner's jury of six, five of whom were employees of the Colorado Fuel & Iron Co., reporting on the death of 75 or more men at the Primero mine January 31, 1910; that the cause of the explosion "is to this jury unknown" (p. 177). The information is embodied in the Biennial Report of the Bureau of Labor Statistics of Colorado, 1909–10, the particular report being made by Witness Coray, at that time specially delegated by the labor commissioner to investigate the Primero accident (p. 174). Witness Ray testified that in the case of a death of a coal miner at the Rider Coal Co. property a week before the witness appeared at the hearing, the witness advised Coroner Sipe, of Las Animas County, that he thought there should be some miners on the coroner's jury, and that during all the years in which he had been in the camp he had never heard of any practical miner being called on a coroner's jury. The coroner stated that he did not know any but two of those who sat on that particular jury. The verdict returned was "unavoidable accident" (p. 2011). Dr. Beshoar, a prominent citizen of Trinidad, threw some light on the possible connection between such practices in the use of coroner's

juries and the coal operators by his testimony to the effect that the coroner, at one time, at least, was connected in business with the coal companies (p. 1328). It would appear unnecessary at this time to elaborate further on this phase of the record. The political situation in Las Animas and Huerfano Counties, which will be mentioned later, will further show conclusively the grievances of the workers in southern Colorado in the vital affairs in question.

PRIVATE DETECTIVES AS MINE GUARDS—THE MAKING OF PRIVATE WAR.

We turn, for the time being, from causes to the conduct of the strike. There has been during its continuance, as there has been in most of the great strikes in this country for the last 30 years, a commerce in irresponsible professional guards, which has resulted in bloody conflicts. The criminality of this commerce has been too often demonstrated. As long ago as 1892 committees of both Houses of Congress condemned it as a vicious practice. These professional guards, under the general designation of "private detectives," thrive on violence which they either commit themselves or provoke others to commit. In permitting the employment during labor disputes of these companies of irresponsible armed men by powerful employers, the Government surrenders its police power into the hands of one of the parties to the dispute, and the natural consequences follow. These desperate men, whose trade is trouble, are made peace officers of the Commonwealth to which they are strangers. Belk, the imported assistant superintendent of the Baldwin-Felts detectives, is made deputy sheriff in three counties of Colorado (p. 2485); he has been deputy sheriff in West Virginia and North Carolina during labor troubles (pp. 341, 342). Felts was made deputy sheriff three months after he came to Colorado (p. 352); two groups of deputy sheriffs—of 24 and 42 men, respectively—were brought in from Texas (p. 2384).

In 1913, the Legislature of Colorado enacted a law designed partially to remedy this evil. (Session Laws, 1913, chap. 71.) This act provided that no person should be appointed a deputy sheriff unless he had been a citizen of the State for at least one year, and of the county where appointed six months, and a qualified voter in such county; and further made it a penal offense for any persons, firm, or corporation, to procure the appointment of any deputies "for the purpose of hiring such deputies at the expense of such person, persons, firm, or corporation, under pretense of guarding private property"; but this act has been "*referred.*"

The evils of the practice of hiring professional guards, "which is rapidly becoming a vital menace to American society," are pointed out by an English detective, Thomas Beet, the American representative of the ex-inspector of Scotland Yard, in a paper in Appleton's Magazine:

> There is another phase of the private-detective evil which has worked untold damage in America. This is the private-constabulary system, by which armed forces are employed during labor troubles. It is a condition akin to the feudal system of warfare, when private interests can employ troops of mercenaries to wage war at their command.
>
> Ostensibly these armed private detectives are hurried to the scene of the trouble to maintain order and prevent destruction of property, although this work always should

be left to the official guardians of the peace. That there is a sinister motive back of the employment of these men has been shown time and again. Have you ever followed the episodes of a great strike and noticed that most of the disorderly outbreaks were so guided as to work harm to the interests of the strikers? It is not going too far to state that many of the strikes have been lost to the workers because, after a time, public sympathy and support have been withdrawn. And this change of public sentiment invariably follows the alleged lawless and violent acts of strikers. Therefore instead of preventing these acts it is to the interest of the employers that they should occur.

In this, perhaps, lies, usually, the reason why private detectives are brought on the scene. Before every duty to the public, as a whole, their duty consists in bringing about the result desired by their employers—that is, breaking the strike. Time and again it has been shown that private detectives employed every effort, fair or foul, to accomplish this end by turning the public against the strikers. Private detectives, unsuspected in their guise of workmen, mingle with the strikers and, by incendiary talk or action, sometimes stir them to violence. When the workmen will not participate, it is an easy matter to stir up the disorderly faction, which is invariably attracted by a strike, although it has no connection therewith.

* * * * * * *

In one of the greatest of our strikes, that involving the steel industry, over 2,000 armed detectives were employed supposedly to protect property, while several hundred more were scattered in the ranks of the strikers as workmen. Many of the latter became officers in the labor bodies, helped to make laws for the organizations, made incendiary speeches, cast their votes for the most radical movements made by the strikers, participated in and led bodies of the members in the acts of lawlessness that eventually caused the sending of State troops and the declaration of martial law. While doing this, these spies within the ranks were making daily reports of the plans and purposes of the strikers. ("Methods of American private detective agencies," Appleton's Magazine, vol. 8, pp. 437, 444.) (1906)

As a disclosure of the nature of this traffic in treachery, we commend to those operators whose interests persuade them that they are fighting for a principle the testimony in this record of the perfidious boy, Langowski (p. 2305), and his paymaster and mentor, Mont Massingale (p. 2346), the mine guard. It is not easy to say which is the more amazing—this boy traitor spy's inordinate egotism or his utter falseness. And Massingale, the mine guard, in the uniform of the State militia, brings this spy and traitor before this committee. And what of that other traitor, Jesse Shaw, the self-confessed embezzler from the union (p. 1753), who urged the union men to kill the mine guards (p. 1921)?

Such despicable beings in the pay of the operators, while at the same time drawing union benefits—intimate with superintendents and mine guards—are the ready tools of the gunmen in creating and fostering violence. A cause which needs such allies is indeed a desperate one.

VIOLENCE DURING THE STRIKE.

Everyone must deplore the violence that has occurred during this strike. The testimony in regard to much of it came before the committee in such form as to be somewhat confusing, until it is carefully analyzed. In view of the real causes of the strike, which we believe are unquestionably established, the committee may regard much of the evidence concerning violence as immaterial, for it is well known that violence generally accompanies prolonged strikes. Nevertheless, some of the evidence taken is so extraordinary, when carefully examined, and is so illuminating as to the responsibility of the operators through their hired guards for the beginning of actual violence, that a partial review of some of the so-called battles should be made. Much testimony was eliminated by the committee, but

the record sufficiently shows that the astounding attack by mine guards on the union tent colony at Forbes, following, as it did, some skirmishes at Ludlow, preceded the most widespread trouble in Las Aniams County, and the tragic killings of union men on Seventh Street, in Walsenburg, similarly preceded the La Veta shooting and other disturbances in Huerfano County. The committee will not now wish their time taken up by a consideration of all the different shootings; but, for the reasons stated, we deem it important to direct attention to some of them.

PROVOCATION OF STRIKERS AT THE LUDLOW TENT COLONY.

It seems to be admitted that the first serious violence involving any number of men was that which occurred on October 7, 1913, when the automobile trip was taken by the Baldwin-Felts detectives and their friends from Trinidad to Hastings. Belk, the assistant superintendent of the Baldwin-Felts agency, was in charge of this party. He was familiar with the region about Ludlow, for before the strike he had been up there "off and on," and had been looking for Lippiatt, a union organizer (p. 1565). It will be remembered that Lippiatt met death at the hands of Belk and Belcher on the streets of Trinidad in August (p. 271). It will appear from a quotation from the testimony presently to be made, that Belk realized that his presence was likely to aggravate the strikers. In the automobile party on that afternoon of October 7 there were Watson, the chauffeur; Belk; Holt; Belcher; Larson; and Chapin. All these men, except the first named, were employees of the operating companies or, like Larson, were indirectly interested with them. The only really disinterested man in the group, Watson, the chauffeur, was not called as a witness.

Belk, the experienced detective and strike breaker, describing what happened in the early afternoon, testifies (p. 2479):

> When we got over the hill in sight of the colony, we noticed a bunch of men—I supposed it was boys playing ball—running across the prairie in our direction. Not noticing it at all, *or not paying particular attention*, we kept going. * * * Suddenly there was an explosion right at our right-hand wheel. The chauffeur thought it was a blow-out. So did I. * * * As soon as the noise of the engine stopped, you could hear rifles spitting. * * * Not very much system to their deploying; but they were deploying. They kept shooting, and, as soon as the car stopped. Mr. Belcher and Mr. Larson and Mr. Watson, the chauffeur, and myself got out of the car, and *immediately we realized what was going on.*

It is very clear, then, that Belk wishes us to understand that he anticipated not the slightest trouble; indeed, trouble was so far from his mind that he took these strikers for "boys playing ball."

But Chapin, an employee of the Victor-American Co., was also in the automobile, and gives us a different story (pp. 1538, 1539):

> Q. Did you see any ammunition in the machine, or were the men carrying belts with cartridges?—A. Well, I don't remember seeing any ammunition in the car. I think they took it out of their pockets and loaded up the guns.
>
> Q. Out of their pockets?—A. I believe so.
>
> Q. The guns were not loaded, then, when they began?—A. *They were not loaded until the trouble was anticipated.*
>
> Q. Until what?—A. Until trouble was expected.
>
> Q. Until it was expected—when was it expected?—A. About the *time we raised that hill there.*
>
> Q. And then they pulled their guns, did they, and loaded the guns?—A. Yes, sir.

Again Holt, the manager of the Stores Co. at Delagua, gives his version of the affair (p. 1573).

By Mr. EVANS:

Q. Were all your people surprised when you were shot at there?—A. I think they were.

Q. Did you hear the witnesses here this morning testify that they anticipated they would be shot at, or assaulted, when they went up the hill and made the raise of the hill?—A. I didn't anticipate anything like that or I wouldn't have been in there.

Q. Yes; but did you hear the witnesses this morning testify to that?—A. I can't say; I didn't hear any of Mr. Larson's testimony, except in spots; I don't remember hearing that.

Q. You didn't hear Mr. Chapin, then, testify that they anticipated trouble as they went—made the raise of the hill?—A. I heard Mr. Chapin make a remark that sounded something like that, but I didn't get all of it. I couldn't hear very plainly.

Q. Wasn't the matter discussed as you went on the trip that there might be trouble on the trip?—A. None whatever. As we were going out this man Larson—I never met him before—made the remark, "I would like to see the white city—the tent colony." I didn't care about going up to the tent colony with Mr. Belk and Mr. Belcher, because there had been some talk about it in the paper—*some threats*. You understand my feeling on the subject. Mr. Belk was in front of me, and I said to Mr. Belk, "Are you going by the tent colony?" when Mr. Larson asked this question, "or are you going by the Berwind cut-off?" He says, "We are going by the Berwind cut-off." He says, "You know *those people are rather aggravated, and I don't believe in aggravating* them any further. We will stay on our own property, and if there is anything done we will be in the clear."

Mr. NORTHCUTT. Who said that?

The WITNESS. Mr. Belk; and I was very much relieved to hear him say he was going out of the way.

We submit that these varying stories conclusively demonstrate the unreliability of these witnesses. Larson, brother of the chief clerk of the Colorado Fuel & Iron Co., was also a passenger in the automobile that afternoon, but has little to say about it. He is a very willing operators' witness and little reliance could be placed upon anything material that he might say, to judge from his testimony. For, in speaking of the speech of Mother Jones before his hotel (p. 1546), he says:

She got up on a chair in front of a window and talked to the strikers. Of course *I could not hear what she said. I was inside the hotel.*

Q. *You didn't hear what she was saying?*—A. *No.*

This was evidently a disappointing answer to the operators' counsel. On the very next page Larson says:

And one minute she would be telling them to disperse, and the next minute she would fly up in the air and——

Q. I thought you said you didn't hear her a moment ago?—A. I didn't hear all of it.

His account of this occurrence of October 7 is that after they had passed the small hill—

We saw a big crowd of men coming across from the tent colony * * * these men were running—

This witness also thought they were playing baseball, though they were "coming toward us; and then the dirt started up and we could hear the bullets whistling" and "we came to the conclusion that there was shooting," etc. (p. 1543); he says nothing of the conversation with Belk as to the latter's being a cause of aggravation to the strikers.

Direct testimony from disinterested parties shows that the first shooting on this afternoon of October 7 came from the direction of the automobile and toward Ludlow. Mrs. Derr was not the wife of a

striker, nor was she living at the tent colony, but her house is directly across the Colorado & Southern tracks at Ludlow. She testifies (p. 732):

> I heard shots, two shots, before the battle. Sounded like they came from the hill between Tobasco and Hastings.
> Q. The hill between Tobasco and Hastings?—A. Yes, sir.
> Q. Do you know which way the bullets or shots went?—A. They went on toward Ludlow from the hill.

Courtney, the railroad conductor, while at the Ludlow station, heard the sound of a shot from the west or the direction of Hastings, and saw an automobile when he climbed to the top of a car (p. 1837). Afterwards he saw men running across the track into the field. There had been no people there before that. He is positive that the sound came from the direction of Hastings and not from the valley between of the first shot, that which caused him to go to the top of the car, the station and the High Line Road on which the automobile was proceeding (p. 1840).

Is it not strange that observing men like Purdum and McDermott, who were watching every day through their surveyor's transit for interesting events (p. 1648), and who had been, according to their statements, threatened with death earlier that very afternoon, should have heard nothing of this shooting in their neighborhood? They were not at all unwilling to go directly into this crowd wholly unarmed.

The automobile party appears to have remained at Hastings about an hour before beginning its return trip. Belk, the leader, has nothing to say about this part of the excursion. Larson, however, says that after remaining from an hour to an hour and a half at Hastings they started back by the same road, with 10 or 12 mounted mine guards accompanying them (pp. 1543, 1544). Though they replenished their ammunition and increased their force of fighters, Larson tells us that there never was anything said about their returning by the same road where they had been fired on an hour before (pp. 1549, 1550). He says his party did not begin the firing on the return trip. "We didn't see anybody to fire at" (p. 1544), "but then some men began to fire, and we did return the fire." The admirable self-possession and restraint of Belk is shown by Larson when he testifies that after getting into the machine and starting back for Trinidad, "We was going up to the Forbes tent colony, and Mr. Belk said if anybody shot from the tents not to shoot back" (p. 1544). In this connection we should not forget that it was Belk who was in charge of one of the machine guns at Forbes 10 days later, and, in fact, was general manager of those terrible instruments of death, though he thinks that that it is his business, and that the public has no concern with such matters (p. 2488).

Besides the bodyguard of armed and mounted men, Dr. Curry, of Hastings, says he accompanied in his buggy the automobile on its return trip from Hastings, though nowhere else in this record is there any showing that he was there. No one appears to have seen Dr. Curry fired at as he passed the shooting mine guards in their automobile on the High Line Road (p. 1729). It will be remembered that Curry generally saw things through a glass and volunteered so much interesting testimony as to cause surprise even to the operators' counsel, who exclaimed, "Tell us about that; that's new" (p. 1730).

Dr. Curry saw a great deal through his glass and otherwise, at first being even willing to swear—although he caught himself after a noticeable pause—that he saw the match in the hands of the strikers who set fire to the section house (p. 1731); and yet this Dr. Curry never, in 17 years' association with them, had heard any complaints from the miners of southern Colorado as to their conditions, nor did he think they had any grievances, though he believed the miners of Pennsylvania and West Virginia had cause to complain (pp. 1731, 1735). We may suggest in passing that if Dr. Curry is a fair specimen of mine surgeons, it is not surprising that the miners protest against being forced to pay their dollar a month for the mine doctor's support.

Wennberg testifies that as he was returning from Hastings on the afternoon of October 7, where he had been refused his mail, he was shot at from the west, or Hastings' direction (p. 314). Amanteo, a witness for the operators, testified that on that afternoon, and before the shooting occurred, Wennberg had been for his mail and was unable to get it (p. 1574). It may be that this shooting from the west toward Wennberg and toward the tent colony, which he was approaching, was done by the guards on their return trip. But, however that may be, the shot near Wennberg, coming from that direction, would not serve to make the tent colonists feel better disposed toward the guards. McDermott says the shooting lasted about 30 minutes (p. 1626). Larson says that firing continued about an hour and a half (p. 1551).

McDermott was a very willing operators' witness and attempted to convey the impression that on the day after this first battle a bridge on the road had been deliberately broken down; but Wooley, the mine guard, who went down on the 9th of October to repair the bridge, says it had been "washed out" the day before (p. 1761). The important admission, however, is made by McDermott in this connection, that the guards who came to repair the bridge "*told us to be on the lookout for some trouble after dinner*" (p. 1627). It is very clear, then, that these 15 or 20 armed guards who came down after dinner on October 9 from the canyons to Ludlow expected and desired trouble, and the first shooting on that afternoon again came from the west toward Ludlow. (See McGregor, p. 909.) It was on that afternoon that one of the guards told Mrs. Powell of the death of her husband in these words: "None of our men were killed, but we got one of Mr. Green's cow-punchers" (p. 1913).

THE ATTACK ON THE FORBES TENT COLONY.

A week elapsed before the attack on the Forbes tent colony, October 17. On this occasion the mine guards added to their other weapons the operators' machine guns, and, without warning, made this barbarous assault upon the colony from their armored automobile. It was fitting that there was chosen to play an important part in this diabolical episode the itinerant desperado, Kennedy, who, having run away from home at the age of 9, enlisted in the United States Army at 13 under a false oath, then swore allegiance to the British Government and enlisted in the English army at 20, and finally leaving India, came to Colorado for further fighting as soldier of fortune, militiaman, and deputy sheriff (pp. 1721, 1725).

The testimony of Mrs. Abbie Johnson, whose disinterested dignity and respectability as a witness compel faith in her statements, convicts Kennedy of vilest treachery and shows the desperate methods that these Baldwin-Felts "deputies" and allies resorted to in their work as strike breakers (p. 952). With at least two machine guns trained on the tents, Kennedy gave the signal for the raking fire which continued mercilessly from early afternoon till dark, riddling the tents, killing one man, and sending nine bullets into the boy Zamboni, crippling him for life. The men operating these rapid-fire guns cared nothing whether there were women and children in the tents, and made no inquiry about the wounded or the dead. (Belk, p. 2483; Wilson, p. 1713.)

Such were the early provocations to violence brought to the tent colonies, accompanied by the reports that more guards were coming down to "clean out every man, woman, and child" (p. 918).

OTHER INSTANCES OF VIOLENCE.

An analysis of the evidence presented to the committee relating to subsequent shootings would show many discrepancies and contradictions in the testimony of witnesses who sought to fix the whole responsibility for violence on the strikers; but we believe it would too greatly lengthen this brief to make this analysis, and in view of the facts shown as to the true beginning of the violence, such an analysis seems unnecessary.

Human nature being what it is, it is too much to expect that this violence will cease till employers of great bodies of men cease to rely on spies, traitors, detective agencies, and armed guards for peace in industrial disputes. Employers and men alike are the victims of this mistaken policy. The chief purpose of professional strike breakers is to prolong and embitter strikes, on which they thrive. Acting often in the nominal capacity of public peace officers they deceive the public and they deceive those who privately employ them with false reports as to proposed deeds of violence on the part of strikers. The course of this strike shows what has been shown in every other, that violence begins by assaults on strikers near their homes and that at length, provoked by these assaults and threats, some of the strikers seek to retaliate.

A judicial recognition of the frequency of violence during strikes is found in the opinion of the Supreme Court of the United States in *Knoxville Iron Co.* v. *Harbison* (1901), (183 U. S., 13, 21), where Mr. Justice Shiras, upholding the law requiring the payment of wages in money as tending to equalize conditions between employer and employee, and therefore as a proper exercise of police power, quotes with approval the language of the Supreme Court of Tennessee, upholding the law as "intended and well calculated to promote peace and good order and to prevent strife, violence, and bloodshed."

THE CONSTITUTIONAL RIGHT TO BEAR ARMS.

Some of the evidence was devoted to a consideration of the purchases of arms and ammunition by the respective parties to this strike. Without adverting at this time to the miners' complaint concerning the loaning of imported rapid-firing guns and other weapons

by the coal companies to the militia and mine guards masquerading as deputy sheriffs, it will be sufficient at this time to cite the following constitutional provision:

> That the right of no person to keep and bear arms in defense of his home, person, and property, or in aid of the civil power when thereto legally summoned, shall be called in question. (Constitution of Colorado, Art. II, sec. 13.)

Even the witness Blood, attorney for one of the leading coal companies, conceded the same rights in this respect to strikers that he claimed for the operators (p. 2424). He says (p. 2415) in testifying to his conversation with the governor of the State and the sheriff of Boulder County:

> Then Capp said that he would go into the inclosure and do this thing and that thing, and the governor said he would do this thing and that thing, and I said, "You will not enter. You will not go there, because the first man inside that inclosure without permission, my orders will be to shoot, and I will give instructions to shoot him."

In making this reference we are not, of course, defending this witness's attitude toward the governor and the sheriff, however typical it is of the autocratic insolence of the industrial feudalism of Colorado.

THE MILITIA.

There was no complete showing made before the committee of the many just causes of complaint that all good citizens have against the Organized Militia of Colorado for their conduct in this strike. We wish to say at the outset of our consideration of this subject that we recognize the fact that there are many officers and privates in the Organized Militia of Colorado who are not subject to criticism, and who have shared in the humiliation thrust upon the State by others, without having had a suitable opportunity to clear themselves as individuals from the charges which have been justly brought against the militia as a whole.

Quite as much time as the committee had to consider all the varied phases of the strike would have been required to attend properly to this one subject. Enough was brought out, however, to convince any impartial and just person of several important facts.

The most important general fact proved is that while the State guard was ostensibly sent into the field to preserve order, it served in reality as a strike-breaking agency for the operators. Among the many bits of evidence conclusively showing this fact, that brought out by Capt. Nickerson is one of the most convincing. He was called by the operators to show how well the provisions of the State law prohibiting the importation into the State of deceived strike breakers were complied with. He seemed to be intelligent and truthful. He gave an account of how he conducted an investigation of a trainload of imported strike breakers, and stated that all the investigations were conducted on the same line as the one he had detailed and for the same purpose (p. 1586). Hence, it is interesting to see how this investigation was conducted. On reaching the train carrying these strike breakers, he found three or four civilians in charge. These were coal company employees whom he had never known before. He was given about 50 of the "contracts" of the strike breakers in order to ascertain whether they understood these contracts, purporting to be signed by them. He spoke to 10 or 15 of those on the train. The rest were asleep. He found that some of

those to whom he spoke understood Spanish, but he didn't know whether there were any Polish or other Slavic people in the group. He does not read any of the Slavic languages and very little Italian. (See pp. 1587, 1588.) Plainly these three or four civilian employees of the coal operating companies imposed upon the good nature of the captain. Yet this is the only evidence of anything that the militia did toward the investigation of the importation of large trainloads of strike breakers like those poor beings who appeared before the committee.

In view of the many violations of law committed by militiamen in the strike zone, the testimony of one witness that the military password, which opened for him all gates, was the phrase "under the law," is really burlesque. He says:

> And the soldiers just as soon as they heard that word, they would let me go wherever I wanted to go—everywhere I wanted to go with the pass. (Yamicely, p. 1168.)

We suggest in passing that "law is something more than mere will exerted as an act of power."

One of the first violations of fundamental law by the militia occurred when Gen. Chase issued his order of November 15 to the district attorney of the third judicial district of the State of Colorado, in which he notified the district attorney—

> that all persons arrested, incarcerated, and held as military prisoners * * * are to be held subject to the order of the commanding general, military district of Colorado, in regard to their confinement, trial, and final disposition of their cases" (pp. 1246, 2584).

It is true, apparently, that no military prisoners were *actually executed after military* trial, though one, at least, died as the result of his unjust confinement (p. 2047).

There were many other instances of unwarranted arrest and detention brought to the attention of the committee, and, had time permitted, many more might have been shown. The governor of the State, in a communication to your chairman, written on the last day the committee was in Colorado, and which we did not see until it appeared in print some five weeks later, states that "Men were held in an attempt to secure evidence" (p. 2838). Such detentions are wholly unconstitutional. Article II, section 17, of the constitution of the State of Colorado provides:

> That no person shall be imprisoned for the purpose of securing his testimony in any case longer than may be necessary in order to take his deposition. If he can give security he shall be discharged. If he can not, his deposition shall be taken by some judge at the earliest time he can attend.

There was no warrant in law for the arrest and rearrest of Mother Jones and her long detention. That the governor, as commander in chief, as well as the commanding general, realized that they could not defend their conduct in regard to her is demonstrated by their evasion—twice repeated—of a hearing of her case in the supreme court. She was first deported and then twice imprisoned. She was charged with no crime and she had committed none. So far from being a disturbing element in the community, this record shows that she led a great parade in Trinidad after the strike had been called, and before the militia went to the field, on which occasion there was not the slightest disorder (Slator, p. 994); and when it is remembered that this parade occurred after the cruel attack on the Forbes

tent colony, when there might have been some justification for union sympathizers showing their provocation, her real influence for good is seen.

Andrew Colnar, though born in Crotia, has lived 18 years in Colorado and is an American citizen. At the request of a union friend, he wrote a letter in his native language to another friend, telling him if he wanted to come down and join the union he would be taken care of. For this he was arrested by the militia, imprisoned and handcuffed, and later tortured by being made to dig what he thought was his own grave. About two weeks later he told his story to the governor, but up to the time of this hearing he had obtained no redress. The representatives of the militia attempted on cross-examination to induce an admission from Colnar that he knew it was all a joke, but no one who hears his story can doubt that it was no joke to him, and that he really thought his captors were going to shoot him and bury him in the grave he was digging (pp. 2052–2058). There was a suggestion by the militia during his examination that he was digging a toilet; but even were this so, his arrest and detention and compulsion to work were not only in violation of the thirteenth amendment to the Federal Constitution, but in violation of the similar provision relating to involuntary servitude in the constitution of Colorado, and come directly within the scope of the resolution authorizing and directing this investigation, being within the purview of the fourth subdivision of that resolution, relating to the arrest, trial, or conviction of citizens of the United States in violation of the Constitution or the laws of the United States.

The committee will recall other cases of illegal arrest; for example, railroad men were arrested on Christmas morning because they declined to violate a Federal law at the command of the militia (p. 804). Mr. Stromberg, who has been a business man of Trinidad for 26 years, was arrested in his own doorway while inoffensively watching the crowd on a busy Saturday evening (p. 724). Mrs. Thomas was arrested and maltreated by the militia and kept in jail 11 days, where it was necessary for her to have with her her small children, and there was not the pretext of a charge against her (p. 795). Sarah Slator was arrested on the afternoon of the well-known women's parade in Trinidad just after Gen. Chase had fallen from his horse and had given his wrathful command to charge the women (p. 989). While this committee was in session Mr. Fyler, who had been a witness before the committee, was arrested with other union men while peacefully resting near the Ludlow tent colony, and they were all lined up against a brick pile with a cannon pointed at them (p. 1506). Lieut. Linderfelt was in charge of the militiamen who committed this atrocity. He was the mine guard who operated the machine gun at Berwind (p. 349). He tried in December to provoke Tikas so that he would have some excuse for beating him up (p. 761). It was he also who on the last of December trained his machine gun with evident glee on the Ludlow tent colony. On the same day he sanctioned the arrest of Orf, and told him that he would not "blame that fellow if he had taken the butt of his gun and hit you in the jaw with it," adding—"I am Jesus Christ and all these men on horses are Jesus Christ, and we have got to be obeyed" (pp. 975, 976).

Linderfelt was complained of to the military authorities, but remained a militiaman (p. 968).

It is unnecessary to quote authorities as to the gross violations of constitutional rights involved in these recitals. We content ourselves with one:

> This court has never attempted to define with precision the words "due process of law." It is sufficient to say that there are certain immutable principles of justice which inhere in the very idea of free government, which no member of the union may disregard, as that no man shall be condemned in his person or property without due notice and an opportunity of being heard in his defense. (*Holden* v. *Hardy*, 169 U. S., 389, 397.)

We shall not discuss all the instances of militiamen's brutality shown by the record. We do, however, consider the evidence concerning these matters relevant to this investigation, as it demonstrates not only the true character of many of these guardians of "law and order," but the absurdity of the claim that the militia acted impartially toward operators and strikers.

Impartiality on the part of the militia was an impossibility, for a great many militiamen influential with the rank and file—composed largely of inexperienced and impressionable youths—were guards hired by the companies. Mine guards were enlisted into the militia in groups; for example, at Sopris 14 were enlisted on one day and 4 on the next (pp. 842, 2352); 8 guards enlisted at Hastings (p. 894). Mine guards were told they must join the militia to hold their positions (p. 841). One man with a mutilated hand was enlisted, the officer attending to the matter having turned his head away with the remark, "I can not see anything wrong with it" (p. 842). These men were paid both by the State and the coal companies (pp. 1797, 2353). Men of the character of Linderfelt and Kennedy (of Forbes infamy), and Joseph D. Smith (who delighted to "string a Congressman"), and Massingale (who hired and guarded the spy, Langowsky), were guards and militiamen. When the guards were not members of the Organized Militia they worked in conjunction with them (p. 701). The stories of the Yeskenski robbery, committed by militiamen (pp. 946–952); of the Polatti robbery (p. 1056); of the abuse of Mrs. Radlich (p. 762); of the cursing of little girls (p. 779); of the abuse of other women (pp. 820, 880), are but a few of those that might have been told to the committee. There were unreasonable searches like those at Mrs. Hall's house (p. 656) and at Mrs. Lowe's (p. 779).

These abuses turned the original cordial welcome that Gen. Chase and the State National Guard received when they first went into the field into a feeling of distrust. Is it surprising that the strikers "considered that they had less protection since the militia have been in the field than they had before that—before they arrived—barring the first month"? (Lawson, p. 296.) One reason for the antagonism of many of the officers and privates of the militia toward the strikers was that the strikers did not return to work promptly upon the appearance of the militiamen, as it had been alleged by the operators they would. Provoked at this unwillingness on the part of the strikers to return to work under conditions which had compelled them to strike, the militiamen were easily induced to act as strike breakers; and from this violation of their proper duties as impartial preservers of the peace, they were easily led to other violations of law.

It had been announced by counsel for the militia: "We will have our evidence when our time comes" (p. 977). Although the committee afforded Gen. Chase an opportunity to explain all the alleged violations of State and Federal laws, he declined to appear as a witness unless he were promised immunity from cross-examination; affording thus further evidence of his conviction that he is above the usual rules of law.

VIOLATION OF FEDERAL LAWS—VIOLATION OF UNITED STATES POSTAL REGULATIONS—THE TESTIMONY.

Passing reference ought also to be made to that phase of feudalistic control of the southern coal camps, particularly manifest in the violation of the Federal laws which the record proves to have been disregarded by the operators with the same indifference manifested toward State statutes.

No effort will be made to summarize all the testimony on the subject. It appears that Federal post offices have been conducted in such closed camps of the Colorado Fuel & Iron Co. as Morley, Tercio, Primero, and many others without any public road reaching the post office (p. 486). Primero has about 600 and Tercio about 300 people (p. 487). These closed camps are entirely company's property, with all equipment and buildings used in connection with them owned by the company (p. 486). Many post offices are also shown to be located in the company's stores (p. 212). Witness Murray testified that in times of trouble restrictions are thrown around the use of such post offices, where there is a possibility of the company's men being influenced (p. 1907). In Hastings, it appears that the company store manager is also the postmaster (p. 1520), and the road to the post office, which was formerly used by the public, is treated as private (pp. 1520–1521).

The interference by the militia with the delivery of mail clearly appears from the record. Witness Clement was denied access to the Pryor post office January 12, 1914, (p. 2071). Witness Lawson produced exhibits in the form of letters to Mother Jones refused delivery through the post office at Trinidad because the addressee was alleged to be a military prisoner (p. 226). Witness Potter testified that the militia ordered him not to return to the Rugby post office for his mail. These are but a few of the numerous instances of direct militia interference with the delivery of mail shown by the record. The violation of the Federal law by at least one of the coal companies was also frankly admitted by counsel and the president of the company (p. 1244). This practice, running counter to postal regulations, consisted in the sale of bank exchange by the companies when post-office money orders were asked of postmasters (pp. 1240, 1244).

THE LAW AS TO POST OFFICES.

That the instances cited are in violation of the Federal law will sufficiently appear from the following brief review:

The statute on this subject is United States Revised Statutes, section 3995; 5 Federal State annotated, page 911. It is as follows:

> Any person who shall knowingly and willfully obstruct or retard the passage of the mail, or any horse, driver, or carrier carrying the same, shall for every such offense be punishable by a fine of not more than $100.

(This statute was passed in 1825.)

In the following case, the defendant was indicted under the above statute for obstructing the passage of the mail by assaulting a postmaster in the post office, where mail was ready for delivery. The point was raised that this did not constitute obstruction or interference with the mail in the sense of the above statute; but the court ruled to the contrary, saying in its instructions to the jury:

I instruct you that by the terms "passage of mails" are meant *the transmission of mail matter from the time the same is deposited in a place designated by law or the rules of the Post Office Department up to the time when the same is delivered to those to whom it is addressed.* * * * If you should find from the evidence that the acts done and committed by the defendant obstructed or retarded the receiving or delivery of the mail matter at the post office in H———, as charged in the indictment, you may find the defendant guilty. (*U. S.* v. *Claypool*, 14 Fed., 129; Dist. Ct. Mo., 1882.)

As to the issuance of private drafts when Government post-office money orders were applied for, the statutes do not seem specifically to cover such a situation. The following sections of the money-order act, however, seem pertinent:

All money received for the sale of money orders, including all fees therein * * * *shall be deemed and taken to be money-order funds*, and money in the Treasury of the United States. * * * (U. S. Rev. Stat., sec. 4045; 5 Fed. Stat. Ann., p. 949.)

Every postmaster, assistant, clerk, or other person employed in or connected with the business or operation of any money-order office *who converts to his own use in any way whatever* * * * or exchanges for other funds *any portion of the money-order funds*, shall be deemed guilty of embezzlement. * * * (Rev. Stat., sec. 4046.)

VIOLATION OF FEDERAL LAWS—A SYSTEM OF PEONAGE.

The first section of the resolution directs the committee to investigate "whether or not any system of peonage has been or is being maintained in said coal * * * fields."

THE LAW AS TO PEONAGE.

What is peonage? The United States statute, passed in 1867, is as follows, omitting immaterial matter:

The holding of any person to service or labor under the system known as peonage is abolished and forever prohibited in * * * any * * * Territory or State of the United States, and all acts * * * by virtue of which any attempt shall hereafter be made to establish, maintain, or enforce, directly or indirectly, the voluntary or involuntary service or labor of any persons as peons in liquidation of any debt or obligation, or otherwise, are declared null and void. (U. S. Rev. Stat., sec. 1990.)

Every person who holds, arrests, returns, or causes to be held, arrested, or returned, or in any manner aids in the arrest or return of any person to a condition of peonage, shall be punished by a fine * * * or by imprisonment * * * or by both. (U. S. Rev. Stat., sec. 5526.)

The Federal courts have had frequent occasion to interpret and enforce this statute. In Peonage cases (123 Fed., 671) the court defined peonage as—

* * * the exercise of dominion over the persons and liberties of servants by the master or employer or creditor, to compel the discharge of an obligation by service or labor against the will of the person performing the service.

In *U. S.* v. *McClellan* (127 Fed., 971) the court declared that in cases under this statute—

The substantial inquiry is: Did the accused consign or hold a citizen in a condition of involuntary servitude for the purpose of compelling him to work out a real or alleged

obligation? This, if done, created a condition of peonage. * * * An unwilling servitude, enforced by the master to collect a debt, is to reduce the victim to the condition of a peon, and, logically, to a condition of peonage.

And in charging the grand jury in Peonage cases (136 Fed., 707) the Federal judge in Arkansas stated:

Peonage, within the meaning of this law, is the holding of any person to service or labor for the purpose of paying or liquidating an indebtedness due from the laborer or employee to the employer, when such employee desires to leave or quit before the debt is paid off. It is wholly immaterial whether the contract whereby the laborer is to work out the indebtedness due from him to the employer is entered into voluntarily or not. * * * *Any attempt on the part of the employer to prevent him from leaving, either by force, threats, or intimidation, or by guarding him and locking him up to prevent his escape, is, within the meaning of the laws of the United States, an offense.*

Again, in charging the jury in a peonage case the Federal judge of South Carolina said (*U. S.* v. *Clement*, 171 Fed., 974):

There may be a system of peonage wholly unattended by any circumstances of brutality. * * * There is nothing in the law which forbids voluntary service in liquidation of debts. * * * but it s unlawful to compel such performance by force or by intimidation. What constitutes force or intimidation is a question of fact, and each case must depend on its own circumstances. *The character and condition of life of the two parties are always to be considered in deciding a question of this nature.*

The Supreme Court of the United States has upheld the constitutionality of the peonage statute, and has defined peonage in the leading case of *Clyatt* v. *United States* (197 U. S., 207, 1904). The court there held the statute constitutional under the thirteenth amendment, prohibiting involuntary servitude, and defined peonage in these words:

It may be defined as a status or condition of compulsory service, based upon an indebtedness of the peon to the master. The basal fact is indebtedness.

THE TESTIMONY AS TO PEONAGE.

Bearing in mind the foregoing rulings of the courts: that peonage need not be accomplished by brute force, that *intimidation* is equally within the prohibition of the law, and that in determining whether intimidation has been exercised the character and condition of life of the two parties are always to be considered, let us briefly examine the testimony.

Considering first the evidence relating to conditions prior to the present strike, we find Witness Edwin V. Brake, chief deputy labor commissioner of the State of Colorado, testifying (p. 73) that in the 1910 strike in the northern field 11 men employed by the Northern Fuel Co. made formal complaint to his office that they had been brought from Chicago under guard, locked in a steel car, without being told of the strike, and had been kept under guard, with locked doors and blinds down, until they reached the mine. Witness Eli M. Gross, deputy labor commissioner of Colorado, speaking of official reports he had made to his department of an investigation made in 1910 in the northern field as to complaints of peonage, stated (pp. 48, 49) that he had found clear evidence that men were being held at work against their will; that he was appealed to by some of the men to get them out of the camp, and did so.

One of the mine guards, under the impression that Gross was a company official, told him in so many words that his orders were to stop anyone attempting to leave the camp; that the foreigners were

afraid and would go back when he told them to, but that he had more trouble with the Americans. Gross says the business and duty of the guards was to "run them back"; they prevented the men from getting out (p. 64). He found that the pass system was in effect, namely, that anybody leaving camp was required to get a pass from the superintendent; that upon a pass being requested, the superintendent would try to persuade the workmen not to go, telling him that he would probably be set upon and killed by the strikers. If the pass was insisted upon, it was usually given, if the absence was for a temporary purpose only; if the applicant wished to leave permanently, the pass was peremptorily refused.

Of holding workmen at work against their will for the payment of alleged debt, since the present strike began, there is a long array of witnesses, opposed for the most part merely by the bald assertions of a few of the superintendents and company employees that there was no peonage. Several large shipments of men were brought in from Pittsburgh; and the story of those importations of strike breakers, spelled out in the broken sentences of ignorant foreigners, shows that from the very moment they boarded the cars, intimidation and restraint were exercised by the company employees. Frank Ledrianowski (p. 621) told the story of the trip, with locked doors and watchmen at either end of the car; militiamen boarding the train at Trinidad, whence the locked car was taken to Berwind. He tried to get away from the camp, but the soldiers drove him back (p. 628), hitting him with a bayonet.

Frank Vargo (p. 822) was another of the Pittsburgh shipment, telling substantially the same story of the guarded cars. He, too, had a troubled experience in getting away from Tercio and Frederick when he wanted to go, one of the mine guards or marshals locking him in his shanty. Giovanni Minniti (p. 1043), another from Pittsburgh, was informed of the strike just before the car reached Trinidad; the car, guarded by militia, was locked and taken to Delagua. He made three attempts to get away, being taken back by guards or militia, and was informed by the superintendent that he had to work until his transportation and board were paid (p. 1045). He finally got away over the mountains. Vittorio Troio confirmed the story of the locked doors of the cars from Pittsburgh and guards "all the time watching them" (p. 1144). Vincenzo Spina (p. 1249) was also first informed of the strike just before reaching Trinidad from Pittsburgh. He wanted to leave at Trinidad, but was afraid on account of the soldiers (p. 1252). Put to work at Delagua, he tried to get away, but was turned back by the soldiers. On another attempt he got as far as Hastings, was stopped by the soldiers, put to work again, and at last ran away over the mountains to Walsenburg.

Dominico De Leo was a carpenter in the Pittsburgh shipment (p. 1262). Informed of the strike just before getting to Trinidad; he was sent to Delagua, and there applied repeatedly, in vain, for carpenter work. He was afraid to leave, because everybody said that if a man tried to get away the soldiers would scare him with their guns, and in some cases shoot (p. 1264). He finally ran away over the hills and walked the long tramp to Walsenburg.

Restraint on the train is described by Antonio Yansenski (p. 1448). He wanted to leave the train when he heard of the strike, but Dominic

told him "the strike will be settled when we get there" (p. 1451). He saw Dominic grab others by the collar and jerk them back when they attempted to leave the car. He was told at Delagua that the strikers would kill him if he went away from camp; but he finally ran away over the hills to the strikers' colony. Almost identical was the experience of Steve Shikara (p. 1452), who was jerked back on the train when, hearing of the strike, he tried to get off. After loading 29 cars of coal at Delagua, and getting only $3 in scrip, he wanted to leave, but was told that the strikers would kill him. This gloomy prophecy was proven false by the kindly treatment he received at the strikers' camp, which he reached by running away over the hills (p. 1454).

Kazmir Kata (p. 1454), picked up at Pittsburgh, and first informed of the strike after they had left Chicago, had never mined coal, knew nothing about it, and could get out but one car a day. He asked at the office for a pair of shoes, but was refused, with the statement that he owed the company for tools and ticket (p. 1455). He was told he could not get out of camp without a pass, so he too took the route over the hills.

Even Pietro Troio, one of the four men brought down to the hearing in a company automobile, accompanied by the superintendent, company marshal, company cigars, and the belligerent and volcanic Yamicely (who believed a man who refused to work for the company was a "traitore") admitted that most of the Pittsburgh crowd had run away at night, because they had been refused passes down the canyon, and were afraid they would be arrested (p. 1133). And Yamicely himself pictured most vividly, though unconsciously, the atmosphere of intimidation which oppressed there poor, ignorant immigrants, when he testified (p. 1168) that they all knew that if they departed without a pass, leaving any debt with the company, warrant would be sworn out, they would be arrested, brought back, and put to work with guards until they would be "square with the company."

Nor are we confined to the testimony of the men themselves. Mrs. Marie Del Gado, a boarding-house keeper at the Royal mine, testified (p. 652) that at one time in January, 1913, seven Greeks tried to get away from camp; three of them were brought back by the militia, taken to the office of the mine, and required to make a settlement with the company before they were allowed to go. All the others, she says, left in the night. And G. S. Lawrence, a militia lieutenant, absolutely confirmed the statement of the miners that they had to have a pass from the mine office before they could get out of Berwind (p. 1856). If anyone tried to get out without a pass, he was stopped and detained until they could telephone up to the mine office or, in other instances, they would send him up there accompanied by a militiaman.

Witness John R. Lawson (p. 223) testified to the case of four Mexican boys shipped in from Mexico to the mine at Tercio. After working about 20 shifts they wanted, for some reason, to leave. The guards took the shoes off from the feet of the boys in the attempt to prevent their going, and only after walking nearly a mile in the snow without shoes to the superintendent's office were they able to get their shoes back.

Deputy Labor Inspector George R. Howe told (p. 170) of numerous complaints of peonage made to his department and investigated by him, referring particularly to the cases of the Brocketts, of Vaughn, and of several foreigners. When on cross-examination he was asked to say that he did not know what they were complaining about, he replied that when men said to him, as these foreigners did, "Me try to get out; me can't," he considered it pretty good English and understood it perfectly (p. 171).

Another group, of which James Adams (p. 114) was one, was brought in from Joplin, Mo., on the "land-contract" plan. This witness and others described the very close and interesting connection, by adjoining offices and other apparently closer ties, between the operators' employment agent, Copeland, and the firm of Price & O'Neill, which sold alleged Colorado land contracts. Copeland's very interesting testimony (pp. 1277–1297) with its reluctant admissions on cross-examination of confidential communications between himself and Price as to "promoting propositions" (p. 1288), with his halting attempts (p. 1294) to explain Exhibit 77 (p. 2586), in which Price, writing Copeland, hopes that certain public reports "will not cripple *our* standing with your company"—certainly contains sinister suggestions of the use by the operators of a dubious land-selling scheme as a bait to lure strike breakers. And the Brockett affidavit, requested by the committee (p. 53), and fully identified by George R. Howe, the deputy labor commissioner who interviewed Brockett and helped draw up the affidavit (p. 170) strongly confirms this view. Unfortunately this affidavit seems not to be included in the published exhibits. The land company admitted to the witness Hickey (pp. 202–203) that it had only an option on land 25 miles from Alamosa—far from the coal mines. Investigation by the United States district attorney led them to promise not to do any more business "until this thing is over" (p. 203).

Returning to James Adams's testimony (pp. 114–128, 133–139), it is in effect that 53 men, women, and children were shipped from Joplin in a special car, upon either end of which, when it reached La Junta, Colo., were stationed militiamen, more of whom boarded the train at Trinidad and accompanied it to Delagua. Adams did not enjoy working as a "scab," and tried to get away after a few days, but was driven back by the militia and put to work again. Applying for his money, he was told at the office that he owed the company $9.80 for tools. A few days later he got away while the militia were drunk, and walked 20 miles through the snow, contracting pneumonia in the process.

Interesting light as to the attitude of the operators toward the state of facts brought out in the testimony thus briefly reviewed is cast not only by the remarkable incident of Yamicely and the four men he was brought in to accompany (p. 1157), but even more significantly by the treatment accorded the State official, Eli M. Gross, deputy labor commissioner. This official tells (p. 65) of an investigation he was ordered to make in January, 1914, of complaints of peonage in the southern field. He visited camps of each of the so-called big three companies (C. F. & I., Victor-American, and Rocky Mount Fuel), and in each instance the superintendents absolutely refused to let him interview the men or to make any

investigation, though he exhibited his credentials as a state official. In one instance he was referred to the militia officer (p. 65), who said that they, the militia, would not pass anybody out until they had a clearance from the company, and when asked why that was, answered, "Because they might owe the company something." This account was fully confirmed by Deputy George R. Howe (p. 14), who accompanied Gross. Howe also told of a conversation they had (through inadvertence, apparently, of the company and militia) with a colored miner whom they met in the road near the Forbes mine. This man said, "There is no need of trying to get out of here; I owe them too much. Everybody owes the coal company here, and nobody can get out" (p. 165).

The only attempt of the operators to excuse their brazenly defiant attitude toward the State officials, Gross and Howe, was the fact that these inspectors were accompaned by an Italian interpreter, whom the operators suspected of having union leanings and who, they feared, might talk to the Italian strikebreakers and urge them to leave.

Can there be any doubt that the operators deliberately intimidated the men to remain at the mines until they had worked out the alleged debt incurred for the privilege of being herded into the mines in locked and guarded trains? Is it open to question, on this record, that they used actual force not only to get them to the mines, but to keep them there; and that where actual force was not employed an atmosphere of fear and intimidation, fostered by the presence of the armed guards and militia and of such men as the fire-eating braggart Yamicely, was purposely created by the companies?

VIOLATION OF COLORADO LAW PROHIBITING FALSE ADVERTISING.

Another subject closely bound up, both in fact and in law, with that of peonage is the clearly established violation by the operators of the Colorado law prohibiting false advertising for strike breakers, and also prohibiting the use of armed guards for the transportation of such deceived employees.

By Colorado Session Laws, 1911 (p. 486, 3 Mills Ann. Stat., sec. 4479), in force July 2, 1911, it was made unlawful for any person or corporation to induce, influence, or persuade workmen to change from one place to another in this State or to bring workmen into this State by means of false representations or false advertising concerning the kind of work, the amount of compensation, the sanitary conditions, or the existence or non-existence of a strike. It was further provided that failure to state that there is a strike when a strike in fact exists shall be deemed false advertisement. The use of armed guards to transport such employees within the State or to bring them into the State is made a felony.

The victims of the Pittsburgh shipment, whose testimony has been briefly reviewed above, were practically unanimous in saying that they did not know until Trinidad was nearly reached that a strike was in progress. The operators' defense invariably was the production of a paper, purporting to have been signed by the various witnesses, acknowledging that they knew there was a strike and were nevertheless willing to work. Let two instances from the record

speak as to the value of these papers. Steve Shikara, a Pole (p. 1453), wrote his name on a piece of paper in Pittsburgh. The record states:

> He said "sign" and I signed. What I signed I don't know. * * * No one told me (what was in the paper). When I found out that there was a strike I tried to get off and they wouldn't let me. * * * I know when it is Polish—Polish literature, but I don't know this (Exhibit 88). I can sign my own name. I can not read.

And Walter Predovich, the interpreter (p. 1457), testified that this very Exhibit 38, signed by this Pole, Shikara, was in the Slavonian language, different from Polish, and that the Polish men, even if they could read their own language, could not understand or read this paper in Slavonian.

The Witness Mike Pincheck, coming from Belahas, in Austria, and speaking Slavish, signed a paper acknowedging notice of the strike (Ex. 45, p. 2573), which he attempted to read to the committee, but finally had to give up, saying (p. 1066), "That is no right Slavish. That is no good Slavish." He finally concluded it was in Bulgarian. It is, to say the least, rather curious that this man, who was more than ordinarily intelligent, and demonstrated (p. 1067) that he could read English readily enough, was asked by the operators' agent to sign, and did sign, this paper in a language which he could not read and did not understand.

Dominico De Leo (p. 1266) says that about 15 miles out of Trinidad the company's representatives on the train carried around a little hand table from one seat to another, and had the men sign; that he was half asleep and hungry when he signed it; that he first knew of the strike when he read the paper he signed. When pressed as to why he signed it, he replied (p. 1267):

> Because I was told that if I wouldn't work I would have to pay for my transportation. I didn't have a cent. I was forced to. I was compelled to sign it. I didn't have anything to eat.

Are not these instances—and there are many others in the record—eloquent with proof that the operators failed to keep even the letter, much less the spirit, of the Colorado antideception act? And do they not forcibly suggest the wisdom and necessity of a Federal act of a similar character?

DEPLORABLE GENERAL CONDITIONS.

The record is filled with diverse testimony showing other general conditions of the most burdensome sort long existing and out of which have grown manifold grievances of the coal miners. It will not be practicable or necessary to review these in detail. Broadly speaking, conditions as to timbering, gas, the laying of tracks, water, shot-firing, lamps and dust, the doing of dead work without pay, might be separately and at length considered. We shall content ourselves at this time, at least, with a passing reference to such matters, important though they are to the men actually engaged in coal mining. The frequency and fatality of dust explosions has already been partially considered, and of this the record speaks fully (pp. 21, 28, 30, 35, 39, 43). Supt. Weitzel confessed to the seriousness of this danger in Colorado (p. 1783). The statement was made that Starkville was a peculiarly dangerous mine on this account, and that it had not been sprinkled prior to one of its serious explosions (p. 870). Witness Marzer testified that the sprinkling

after the explosion was only done when the Colorado Fuel & Iron Co.'s inspector was coming (p. 870). Witness Fyler testified to the danger of gas at Tabasco, and insisted that underorganized conditions the workers could have protected themselves, as they were not allowed to do by the company for which they were working (pp. 1094–1095). The same witness testified to the hardship connected with the hunting for props and rails and due to the absence of a dead-work scale in Colorado (p. 1091). This testimony and much beside along the line of general grievances of the miners was based on a long practical experience in Colorado as a coal miner (p. 1091). Witness Zanatell gave considerable testimony showing the exisence of different kinds of gas at Forbes (pp. 1079, 1086–1087).

He further stated that he made a practice of supervising the timbering while mine foreman, and that during all the time he was mine foreman he never had a man hurt or killed (p. 1079). This witness, of course, in a measure sustains the report of Coal Mine Inspector Dalrymple as to preventable character of many accidents. Witness Dalrymple testified clearly as to the preventability of dust explosions by wetting down the mines and by cleaning up undue accumulations of dust and fine coal (p. 39). Witness Ward testified as to the bad condition of the air and poor timbering, and the danger of open lighting in his experience (p. 855); and much testimony along similar lines, which, as stated, it will hardly be necessary to review, was given by witnesses Game (p. 1106), Hammond (p. 998), Henness (p. 1927), McCune (p. 2258), McIntosh (p. 878), Peet (p. 1943), Pickens (p. 1946), and others. We submit that this testimony overwhelmingly shows that the conditions under which the workmen in Colorado toiled prior to the present strike were onerous, oppressive, and dangerous to an intolerable degree. It certainly is not to be wondered at that in the presence of conditions of this sort men—and especially those previously affiliated with unions—turn for relief to organization. Witness Fyler, a man of marked intelligence, stated that he found conditions in Colorado those of "slavery," and in this connection he remarked:

> I know that the United Mine Workers took care of all of its people. They have buried their own dead. They have looked after the widows and orphans to a certain extent. I have known a lot of mine camps in that State (Ohio) that sustained their own lodges, built churches for itself—a positive fact—that it has been a great educational institution for the workmen (p. 1091).

REPORT OF FEDERAL GRAND JURY.

In the face of such testimony as to miners' grievances as causes of the Colorado strike, attention may surely be directed to the following extracts from the findings (however unwarranted in other respects) of the Federal grand jury at Pueblo, Colo. (record, pp. 2554–2555):

> In addition to our investigation of specific violations of Federal statutes, respecting which indictments have been returned and regarding which comment is unnecessary, we have discovered the existence of many miners' grievances that appear to be involved in the strike in one way and another.
>
> We were very favorably impressed with the high degree of intelligence and the general mental attitude of many of the witnesses who were striking miners. They exhibited, in numerous instances, a remarkable spirit of justice and fairness. From the testimony of many witnesses the operators appear to have been somewhat remiss in endeavoring to secure and hold the good will and confidence of the mine workers and to promote their comfort, and in leaving their duty in this respect to be performed

by minor company employees, whose efforts are often directed more particularly to accruing a large mine production at low cost—in many instances to the real detriment of the miners—than furthering the welfare of employees. * * * The State laws have not been so enforced as to give all persons concerned the benefits which are derivable therefrom. * * * Many camp marshals, whose appointment and salaries are controlled by local companies, have exercised a system of espionage and have resorted to arbitrary powers of police control, acting in the capacity of judge and jury and passing the sentence, "Down the canyon for you," (meaning thereby that the miner so addressed was discharged and ordered to leave the camp), upon miners who had incurred the enmity of the superintendent or pit boss for having complained of a real grievance or for other cause. These, taken with brutal assaults by camp marshals upon miners, have produced general dissatisfaction among the latter. * * *

Miners generally fear to complain of real grievances because of the danger of their discharge or of their being placed in unfavorable positions in the mines.

Some phases of the scrip system are apparently still in use, and are the source of complaint from many miners. * * *

Notwithstanding the statement made by the coal companies that they are desirous of promoting the employment of checkweighmen, many miners apparently believe that employees have frequently been discharged because they have made requests to mine officers for the institution of some system of checking the weights by the miners. Operators of coal mines testified that the problem of securing correct weights and of obtaining an absolutely honest, capable, and impartial weighman is difficult. A corrupt weighman has been known to deduct a large number of pounds from the account of a miner to whom he was unfriendly and add it to the account of a miner whom whom he wished to befriend. It does not appear that operators knowingly profit by false weights.

THE DENIAL OF SOCIAL, INDUSTRIAL, AND POLITICAL JUSTICE.

To state the situation in another way, we confidently affirm that the whole record as to conditions in Colorado prior to and during, and causes leading up to, the present strike discloses a denial of social, industrial, and political justice, from almost every standpoint, to a degree shocking under our boasted civilization. Rev. McDonald classified Colorado's difficulties as industrial, social, religious, political, and educational (p. 2019). Grouping educational and religious grievances under the social head, we have left the broad classification first mentioned. The educational and religious difficulties in the coal camps are concisely dealt with in part by the witness last named (pp. 2022–2027). Grave as they are they will not be specifically reviewed because they appear to be incidental to the general and more vital "wrongs" already enumerated.

We have examined the feudalistic régime and its autocratic assertiveness along all lines. We have considered the frank way in which constitutional rights have been denied. We have surveyed the utter recklessness with which laws, both State and National, have been violated by the coal companies, and we have enumerated some of the many phases of social and industrial injustice shown by the record.

It remains for us to make some comment on the political domination of southern Colorado, to which is attributed so large a part of the blame for the conditions reviewed. It was definitely and affirmatively charged in the hearing at Trinidad by Mr. Lawson that the political corruption in Las Animas and Huerfano Counties for many years—

was one of the vital causes leading up to this strike * * * because without political freedom the miners of this field might as well not have any law on the statute books at all (p. 1307).

Mr. McLennan added:

Those conditions we have repeatedly brought to the attention of the officials. When we couldn't get redress from the district attorneys for this county we took it to the

Attorney General. I cite one instance. * * * We took the matter to Gov. Shafroth, and Gov. Shafroth requested the Attorney General to investigate it, and he made an investigation, but after we found out the manner in which they selected the juries in Huerfano County we decided it was absolutely useless to carry the case any further, and without, as I stated, going into the political situation you could not get the reason that caused this strike; and I want to say * * * that this is not a partisan political position. There is no political party that will assume responsibility for the politics of Las Animas or Huerfano County (p. 1309).

Mr. Welborn, president of the Colorado Fuel & Iron Co., frankly raised this serious issue by reading into the record (p. 514) a notice signed by himself, issued in the fall election of 1912, to mine superintendents, store managers, and other camp officials, advising them that "Everyone of its employees shall be and feel free to vote as he sees fit," accompanied by the denial of the political activity of the company (p. 514). For the rest, the record overwhelmingly shows, with the exception of the 1912 campaign (when the extraordinary circular referred to was issued, as if in confession of prior corporation activity), the persistent and baneful interference of the large coal companies of the State in the governmental activities of southern Colorado. Witness Garner, a prominent resident of southern Colorado (pp. 1297, 1312); Dr. Beshoar, another citizen of high standing in the same section (p. 1317); and United States Postmaster Vigil (p. 1335) leave no doubt on a candid mind as to the justice of Mr. McLennan's grave indictment and as to the complete subordination of government in southern Colorado to the great coal companies for years without number. Corroborative evidence of the highest order has already appeared in the record in the showing made as to mine accidents and coroner's juries. In Huerfano County the situation has been even more tyrannical and nauseating to every lover of free government. Maj. Coan (p. 1971), Dr. Abdun Nur (pp. 2049–2050), Witness Mitchell (p. 1987), and Witness McQuarrie (p. 2375), long a deputy sheriff in Huerfano County under Jeff Farr, notorious as the ruler of that "kingdom" (p. 1983), and others, by their extraordinary testimony, leave no doubt on a candid mind of the truth of their charges showing the long-continued overthrow of constitutional government through the agency of large coal companies in southern Colorado. But if any doubt remains, it certainly must be dispelled by the speeches of Judge Northcutt, general counsel for the coal operators, and of the present district judge of the third judicial district of Colorado, as reported without contradiction from the fall election of 1912. At Lamar, Colo., October 10, 1912 (pp. 2586–2590), Judge Northcutt, among other things, said:

You who have been attending conventions for the last 10 years in Colorado know very well, if you are honest with yourselves and your neighbors, that you can not put your finger on a single item of convention legislation in the way of a platform or a nomination in which you were instrumental. * * * What have you done? You have gone to Denver and gotten as near the inner circle at the Brown Palace Hotel as you could to find out what the "powers" had mapped out for you to do, and if you had too much manhood to vote, you sat there silently and came home ashamed to meet your constituents, lest they should ask you what you had done and how you did it. These are facts which every man who has been going to conventions knows to be true. I don't know just exactly how hard the roller has run down here. I know it has been here, because I have seen its tracks. I know that some of your supposedly leading politicians have made their solemn pledges within the last six months that they would do certain things; said that no power on earth could withhold them from it, but when the time came they said they had to play politics and did exactly the opposite from what they said they would do. I think that operation is comparatively light down here in this valley, because, if you will permit me to suggest, farming communities

are not run quite so much like a drove of sheep as the mining communities and communities in the large cities. The farmer will refuse, because he feels independent and feels he is not to be driven as a sheep, and you people are fortunate in being located in a farming community where you can get indorsement for that which is good, whether some man up in Denver says you may have it or not. * * * Let me tell you how they do it, because, as a matter of fact, you are really affected and you are interested in it, and I will endeavor to tell you why. Up there a few men get together in a room some days before the convention. They have already fixed up whom the delegates to the convention shall be. They have probably given the local superintendent of the mines the number of delegates to which that community will be entitled. They do not tell him whom to bring. He knows he is to select a certain number of delegates who are to come in and follow the dictation of a single man whose name is given to them before they leave. He goes around and picks out Jim Archuleta and some others, and says to them, "I want you to go down to a convention to-morrow, down to Trinidad to a convention, and you see Mr. So-and-so and do as he tells you." Knowing that these delegates will come in and do as they are told, a meeting of four or five leaders is held and they proceed to make the slate. "We will take for county clerk So-and-so; he is a good man for the purpose." Some other man says, "But still, I think probably some time within the last 8 or 10 months he had some trouble with some pit boss," and there is just a suspicion if the company likes him. He isn't right with the company and they don't want him; he goes off the slate. And so it is from bottom to top the candidates are selected, not with a view to their fitness, not with a view to their ability to discharge their duty, not with a view to their integrity, but "are they satisfactory to the company?" If they are, that settles it. * * * And they have a majority of your conventions, and when they come to select delegates they select them in the same way. They send them in there to nominate, regardless of your wishes, for the office of district judge or State senator the man whom the companies want, and if you don't like it you will have to take it. * * *

I am going to say just a word to you about another political candidate. He is here present to-night. He has probably enjoyed a practice as extensive as any man in the southern part of Colorado; and let me tell you something which you probably don't know: He is the one man in the practice of law in the third judicial district who has had the courage when some unfortunate widow or brother has come to him whose only support has had his life snapped out on the railroad—he is the one man in the practice of law in the third judicial district who has had the courage to say, "You have got a case, and we will go into it for you, and we will recover for you if we have to fight it to the court of the last resort in the land." Most of the lawyers are afraid to do that because they are afraid the company will blacklist them and be against them politically and every other way. * * *

On the same occasion Judge A. W. McHendrie even more concisely summed up the well-known political conditions complained of and disclosed by the record, as follows (p. 2600):

I could take up where Judge Northcutt left off and go on and talk to you until you were overcome with weariness and tell you of conditions that obtain in the western part of this district in Las Animas and Huerfano Counties. I could tell you * * * the day never came when we could even procure a delegate to a convention to nominate a justice of the peace until the chairman or some one in the party telephoned to Denver and got the O. K. of Cass Herrington on that delegate, and Cass Herrington, as you know, is the political manager of the Colorado Fuel & Iron Co. There hasn't been a man nominated in the last two years at least, with the single exception of a Senator, on the Republican ticket that didn't first receive the O. K. of those individuals in Denver, and the only reason that that man was nominated was that they held the convention in Bent County and they wouldn't let the Las Animas delegation vote. * * *

It is no wonder that in the presence of sober accusations and confessions of this public character Judge Northcutt stated to the congressional committee that the operators, in rebuttal, did not "propose to introduce a syllable of testimony, except possibly to introduce the returns of the last election * * *" (p. 1355). Maj. Coan expressed the opinion, from which no well-informed, disinterested citizen of Colorado dissents, that the condition in southern Colorado amounts to the deprivation of constitutional rights (p. 1982). Labor Commissioner Brake voiced the same personal view (p. 92). On

this subject, however, opinions need not be multiplied; the record is the best evidence.

We shall end our consideration of the revolutionary consequences of the selfish domination of political conditions and governmental agencies by reference to one of its typical illustrations. Witness Ball (p. 1998) testified to the breaking of his jaw without provocation by Deputy Sheriff Louis Miller February 1, 1914. The clerk of the district court, T. M. Hudson, produced the records of that court (p. 2000), showing that of the 12 jurors who subsequently tried Deputy Sheriff Miller for the assault, with resulting acquittal, at least 7, and possibly 8, were fellow deputy sheriffs. He added (p. 2001) that 12 of the 24 jurors summoned were fellow deputy sheriffs with Miller, and that only 3 of the 15 jurors sworn were challenged at the trial to obtain the proper number of jurors (p. 2002). The same witness, subsequently testifying, described the prevalent and long-existing method of juggling with the selection of jurors in Huerfano County. He stated (p. 2059) that out of a list of jurors of approximately 300 names certified by the county commissioners in January, 1913, 185 were duplicated in making up a new list; that (p. 2060) out of approximately 300 names in the last four lists similarly certified, 135 names had been certified every time, 66 names had been certified on three of the last four lists, and 37 twice on the last four lists. He added that on the last list 11 names were of nonresidents, 3 names were of persons who had died, and 2 of persons who are deaf, and that 43 were the names of deputy sheriffs. He also added that five of the lists contained less than 300 names, and that one list contained as few as 160 names, another 190, and another 196 names (p. 2061). It is difficult to conceive disclosures as to the practical operation of courts where justice is alleged to be dispensed more at variance with commonly accepted notions of constitutional government. Without pursuing such recitals further, we content ourselves by quoting the optimistic suggestions of Witness Abdun Nur (p. 2051):

By Mr. BYRNES:

Q. Where did you say you came from?—A. From Syria.

Q. If this place is as bad as that, don't you think you would be safer in Syria?—A. I think this kind of conditions can't last much longer. * * *

Q. But you hope it will change; that is why you are staying?—A. I hope it will. I am sure it is going to.

CONCLUSION.

No earnest citizen can turn from the mere summary and classification of this committee's absorbing record of human conflict, suspended laws and constitutions, accentuated personal misery, and injustice prolonged through years without a new view of the duties and obligations of the civilization in which we live, and the relation to modern industry which government must more and more definitely sustain. It is clear that every problem of labor and capital in the conduct of present-day business is as deeply rooted in the coal mining conditions of Colorado as in the older portions of America and in Europe itself. Colorado's problems, while in some respects more acute in manifestation and in background are essentially one with those of the coal-mining industry everywhere, and call for the same compelling remedies. The national character of the industrial war in Colorado is as evident as the need of national solution, to supple-

ment State remedies. At the very outset, we find the interlocking of national forces of labor and capital. Interstate contributions of funds sustain organized labor in its demands for new and enforced laws and for the recognition of labor's right to organization and collective bargaining.

Interstate shipments of workers, of strike breakers, of arms and ammunition, of gunmen, and soldiers of fortune, are proven and confessed; and, to crown the disclosures, citizens of various States, including such financial spokesmen as Mr. Rockefeller, concede their ownership of the capital invested and disclaim all conscientious scruples or responsibility, while denying even a migratory knowledge of the tragic conditions revealed in the failure of the great trust confided by modern society to their indifferent care.

Surely, organized government is the only power competent to deal with a situation so complex and fundamental. Society's rights are supreme. Capital and labor alike must subordinate their special claims to the communal welfare. This doctrine, as we have seen, possesses no novelty. It is deeply rooted in the law and inextricably interwoven with the history of government. Industrial development has no clearer lesson than this: That to the degree in which laws fail to establish economic justice men will organize in self-protection, and organized capital, arming itself and its supporters for that declaration of war which is, by all right, a function of the State itself, will add violent oppression to that grievous poverty which is the enduring burden of the workers of the world.

SUGGESTIONS FOR LEGISLATION.

Reviewing the whole record, we venture to recommend the immediate enactment of Federal legislation, carrying the severest penalties for violations, along the following lines:

1. Rigid prohibition of interference with United States money orders, mails, and post offices, protecting the inviolability of correspondence, requiring free public access to post offices, fixing unequivocal Federal jurisdiction over the same, and maintaining public rights of way to and from the same for any and all users.

2. New statutory definitions of peonage, including interstate movements of workers, and forbidding any system of forced labor for the working out of any debt, as in violation of public morality.

3. A Federal antideception law, forbidding misrepresentation, fraud, or force in foreign and interstate employment of workers.

4. The prohibition of interstate shipments of workers in strike disturbances to take the place of strikers.

5. The prohibition of the interstate movement of guards, gunmen, and private detectives, and of the interstate shipment of firearms and explosives for the maintenance of private war, whether during or in anticipation of strike disturbances.

6. The prohibition of arrest, trial, or conviction of persons, or the taking of property without charge, notice, and due opportunity to defend, under judicial conditions, with clear legislative definitions of generally recognized constitutional rights.

7. The rigid supervision of all corporations doing interstate business and their Federal licensing, with power to revoke when required by the public welfare.

8. The prohibition of interlocking directorates and of "dummy" directors for corporations engaged in interstate commerce, with severe personal penalties attaching to individual officers for corporate violations of law.

9. Full legal recognition of labor's right to organize, with prohibition of discrimination against organized labor and its products in interstate commerce; also full legal recognition of labor's right to do collective bargaining with capital operating collectively.

10. The unqualified fixing of the status of coal mining as a public utility.

11. Strong Federal provisions for arbitration in labor disputes, involving public utilities doing interstate business, with continuing service to the public, subject to fines for violation, pending an attempt at Federal arbitration.

12. Provision for the taking over under law of the management and operation by the Government of public utilities doing an interstate business for the benefit of society, on just terms, pending settlement of industrial controversies.

Respectfully submitted.

E. P. COSTIGAN, and
JAMES H. BREWSTER,
Special Counsel before the Congressional Committee.
HORACE N. HAWKINS,
Attorney for the United Mine Workers.

DENVER, COLO., *May 1, 1914.*

○

LIBRARY OF CONGRESS
00026482938